IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. S145 of 2019

BETWEEN:

Shane Dowling
Applicant

and

Seven Network (Operations) LIMITED
First Respondent
Seven West Media Limited
Second Respondent

AFFIDAVIT

I, Shane Dowling, of 1/78b Ocean St Bondi NSW, Journalist, affirm as follows:

1. **Proceedings details**

In 2017 Seven Network (Operations) Limited and Seven West Media Limited instituted proceedings in the equity division of the NSW Supreme Court against an unknown party. From memory I think the matter name at the time was known as Seven v Publisher X or something like that (Matter number is 2017/116771) At a later date I was made the respondent based on hearsay evidence of Sevens Lawyers Richard Keegan. It is another one of Kerry Stokes' / Seven's / Capilano Honey's SLAPP lawsuits against me and they have numerous SLAPP lawsuits against other parties which are relevant because they reinforce how this matter is a SLAPP lawsuit and they show why the High Court of Australia should remove the matter so a precedent can be set outlawing SLAPP lawsuits.

Chief Justice Tom Bathurst made it very clear in September 2016 that he personal vendetta against me and wanted me jailed for what I write and publish about judicial corruption on my website and Chris D'aeth's police statement shows Justice Bathurst has ordered court staff to do what they can to make sure I'm jailed. Based on the evidence this includes aiding and abetting Kerry Stokes in his numerous SLAPP lawsuits against me. This is further supported by the fact that 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

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Ref: Shane Dowling

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.

It is currently set down for another direction hearing on the 22/5/19 where the applicants have charged me with contempt for breaching suppression orders even though they have not proven I own the website because I don't.

Seven used the proceedings to subpoena my computer from the NSW Police to use not only is this matter but also their others SLAPP lawsuits against me and possibly others as I am a journalist and I have no doubt that Kerry Stokes and Seven are after my sources. The reason had my computer was because of a malicious complaint to the police by NSW Supreme Court staff on the instruction of Chief Justice Tom Bathurst. There have been two judgments in this matter involving me which is judgment by Justice Lucy McCallum on the 19th of July 2017 (See annexure "A") and a judgment on the 7th of December 2018, while I was in jail, where Justice Rees gave Seven Network (Operations) Limited and Seven West Media access to a copy of my computer (See annexure "B").

The reason had my computer was because of a malicious complaint to the police by NSW Supreme Court staff on the instructions of Chief Justice Tom Bathurst I regards to an email I sent to the judges of the NSW Supreme Court. The police charge was withdrawn by the CDPP because the email was clearly and blatantly political communication raising allegations of criminal conduct by judges. (See annexure "C" which is an affidavit from an associated matter but has the relevant documents to this matter) which has the police statement of the NSW Supreme Court CEO and Principle Registrar Chris DÁeth, the Prothonotary of the NSW Supreme Court - Registrar Rebel Kenna and the arresting police officers and a copy of the offending email) Further details are in this affidavit and the Application for Removal.

Attached as annexure "D" is the statement of claim and attached as annexure "E" is the latest court orders made.

2. Background

I have been on the receiving end of judicial bullying and bastardisation since 2014. The same type of bullying that the NSW Bar President recently wrote about in the media where judges are bullying barristers and lawyers. A recent example was on the 3/5/19 where Justice Clifton Hoeben had 5 court Sheriffs sit at the back of the

court to intimidate me while Justice Hoeben threatened me with jail at least 10 times during the course of the proceedings which only lasted about an hour. I recently did 4 months jail which was in part for being found guilty of calling Justice Hoeben a paedophile in court so Justice Hoeben should not be hearing my matters but he refusing to stand down from the matters.

In January 2011 I set-up and started publishing the website Kangaroo Court of Australia which specializes in judicial and political corruption. Up to 2014 I knew very little about any NSW judges except what I read in other media. But in April 2014 Kerry Stokes instituted defamation proceedings against me in what is best described as a SLAPP lawsuit and since then he has instituted a number of other SLAPP lawsuits and I have been before over 20 NSW Supreme Court judges and I am now well-known and extremely disliked by NSW Supreme Court judges. I have written many articles accusing judges of numerous crimes including taking bribes and being paedophiles etc and most if not all of the judges are well aware of the articles as many of the articles have been tendered in court, but none of the judges have ever complained.

I have lost count of the number of suppression orders and non-publication orders issued against me but my guess it would be over 20 all of which are or were a baseless abuse of power by the courts and all almost all related to Kerry Stokes, except the suppression orders in this matter, and without a doubt bribes are taking place.

I have also had 2 super-injunctions issued against me both of which have been lifted as it was scandalous that they were ever issued in the first place. A prime example is the recent NSW Court of Appeal judgment Capilano Honey v Shane Dowling (October 2018) where wide ranging suppression orders and non-publication orders were lifted. The matter also had a super-injunction for 18 months, but it was removed by consent after pressure by the judge as it had become very embarrassing for the court.

The SLAPP lawsuits are:

(The High Court of Australia needs to intervene and make SLAPP lawsuits illegal as they are in many places overseas)

Munsie v Shane Dowling – Commenced April 2014 – 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. The matter started off at an ex parte hearing where the applicants managed to get wide ranging suppression orders, non-publication orders and a super-injunction.

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.

The suppression orders, non-publication orders and a super-injunction only lasted a few days because they were so dodgy, and Justice Ian Harrison lifted the orders. A few days later the applicants instituted what can only be described as a back-door appeal and had Justice Peter Hall reinstate the non-publication orders. The applicants also charged me with contempt for breaching the super-injunction (even though it was lifted after a few days and was never justified) and I was fined $2000 which I never had to pay. In 2015 Kerry Stokes Ryan Stokes was added as an applicant.

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.

Since this matter has stated 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.

This matter was before Justice Clifton Hoeben on the 3rd of May and he dismissed my Notice of Motion as he said I need leave of the court which he refused. This 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.

Capilano Honey v Shane Dowling – Commenced 10 of October 2016 – The matter has gone nowhere in over 2 ½ years. Currently waiting for a decision by Justice Clifton Hoeben in relation to the applicant's application to have my defence struck out. It is a perfect example of a SLAPP lawsuit.

This started out as an injurious falsehood and defamation claim against me in ration to Capilano selling poisonous, toxic and fake honey by the Kerry Stokes' controlled Capilano Honey (Stokes owns about 20% and rules Capilano with an iron fist) and their CEO Ben McKee before Justice Peter Hall. The matter started off at an ex parte hearing where the applicants managed to get wide ranging suppression orders, non-publication orders and a super-injunction which is identical to the Munsie v Shane Dowling matter and the same barrister Sandy Dawson and lawyers, Richard Keegan, Martin O'Connor from Addisons etc) were used.

On the 8th of June 2018 Justice Lucy McCullum squashed the suppression orders and non-publication orders in the judgment: Capilano Honey Ltd v Dowling (No 2) [2018] NSWSC 865 (8 June 2018). The super-injunction had been lifted a few weeks earlier by consent. The judgment was stayed to give Capilano Honey and Ben McKee an opportunity to appeal which they did. Capilano Honey and Ben McKee were smashed in a unanimous decision by the Court of Appeal for having no reason for the ex parte hearing, using hearsay evidence, using secondhand hearsay evidence and in many cases having no evidence to support their case. The court found that the suppression orders had "an unjustifiable chilling effect on freedom speech". The court of Appeal judgment are: Capilano Honey Ltd v Dowling (No 1) [2018] NSWCA 128 (15 June 2018) and the main judgment is: Capilano Honey Ltd v Dowling (No 2) [2018] NSWCA 217 (3 October 2018). This matter is currently be heard by Justice Clifton Hoeben which 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.

Jane Doe and Ors v Shane Dowling – Commenced 21st December 2016 – The matter has gone nowhere in over 2 ½ years just like the Capilano Honey matter. The applicants are a well-known on-air Channel 7 TV host and a well-known Channel 7 actress, and two former Channel 7 female staff members were added at a later date.

This started out as a defamation claim against me paid for by Seven West Media and Kerry Stokes and using their same lawyers as per the Munsie v Shane Dowling and Capilano Honey v Shane Dowling matters. It is in relation to the Tim Worner / Amber Harrison sex, drug and fraud scandal where Harrison wrote in a legal document that the applicants also had sexual relationships with 7 CEO Tim Worner and also likely benefitted from the fraudulent use of shareholders funds.

The matter started off at an ex parte hearing (as per the previous two SLAPP lawsuits) before Justice Stephan Campbell where the applicants managed to get wide ranging suppression orders and non-publication orders based on hearsay evidence by their lawyer Richard Keegan. None of the applicants have ever filed a signed affidavit any evidence to support their claim they were defamed.

On the 2nd of February 2017 the applicants instituted contempt proceedings against me, for breaching suppression orders that were only issued on then basis of Richard Keegan's affidavit of hearsay evidence, and I was jailed for 4 months.

At this point in time the applicants had my defence kicked out in August 2018 and have failed to have the matter set down for final hearing. I have contacted the lawyers who ignored me. They are the same lawyers for the others matters. I even contacted the applicants directly and their lawyer Richard Keegan emailed me and said they are waiting for a hearing date. That's a lie as they have had since August 2018 to get a hearing date and they ignore my emails. It's another blatant SLAPP lawsuit which the High Court needs to make illegal.

This matter is also currently being dealt with by Justice Clifton Hoeben which 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.

I also emailed Justice Clifton Hoeben for this matter to be set down for a direction's hearings, as I was instructed by Justice McCallum's associate to do so, and Justice Hoeben has also ignored my emails. As of today (8/5/19) I received am email saying the matter is set down for directions on the 17/5/19 before Justice Hoeben who will without a doubt do exactly what the applicants want as he has with the other matters.

Seven Network and Seven West Media v Shane Dowling – Commenced on the 19th of April 2017 against The publisher, sevenversusamber.com. I seem to have been made the respondent on the 31st of July 2017. The claim seems to be based on trying to hide Seven's criminal conduct that was being exposed by Amber Harrison. The matter has gone nowhere since then although it is currently set down for another directions hearing on the 22/5/19 where the applicants have charged me with contempt for breaching suppression orders even though they have not proven I own the website because I don't.

While I was in jail I refused to have the matter heard until I was out of jail but I was denied natural justice and bullied by Justice Rees and she even had jail staff threaten me to be at a hearing where she dismissed my Notice of Motion to set aside their subpoena for a copy of my computer and give me back the copy of my computer which was illegally copied but Justice Rees gave the applicants access to the copy of my computer.

3. **Contempt Charge**

I was charged for contempt of court for saying on the 3rd of February 2017 in court before Registrar Christopher Bradford that he is a known bribe taker and suspected paedophile and that Justice Clifton Hoeben is a paedophile. The Prothonotary went to court that afternoon at an ex parte hearing and had

suppression orders and non-publication orders put on what I said in court. I breached those suppression orders by writing an article telling people what happened, and I was charged with a further 2 contempts for doing nothing more than reporting what happened. I was not charged until April 2017.

I deny the allegations and argue that even if I was guilty of saying what the court claims then it was protected as political communication as per Lange v ABC. What I said in court was taken out of context and selectively edited to change what I had said. It must be noted in September 2016 I said almost the exact same thing to Registrar Bradford about him in court and he did not complain and refused to recuse himself from hearing the matter. So in September 2016 what I said to Registrar Christopher Bradford was such a minor issue he could still hear matters involving me but in February 2017 it was such a huge issue that he had to have me charged with contempt and could no longer hear matters involving me. What changed? An email I sent to the Supreme Court judges in September 2016 and the subsequent police complaint which was coordinated by Chief Justice Tom Bathurst, CEO and Principle Registrar Chris DÁeth and the Prothonotary Rebel Kenna regarding the email.

4. **Email to the court accusing 15 judges, 1 magistrate and 2 registrars of being paedophiles or suspected paedophiles.**

On the 6th of September 2016 I sent an email to all the judges of the NSW Supreme Court accusing 15 judges, 1 magistrate and 2 registrars of being paedophiles or suspected paedophiles and raising issues of judicial bribery such as the $2.2 million Australian Mafia bribe of NSW judges as reported in 2015 by the ABC Four Corners program and Fairfax Media. I notified the judges that I would be publishing a story and gave them an opportunity to respond. No one responded and I published an article on the 9th of September 2016 titled "*Paedophile priest gets 3 months jail for raping 3 boys by NSW Supreme Court's Justice Hoeben*". The article also published a copy of the email. No one has ever complained to me about the article or asked me to take the article down from my website. Even when the police charged me in June 2017 they never asked me to take the article down and it is still on my website.

5. **Police charge**

The police charged me in June 2017 for sending the email in September 2016. Until that time, I never knew a compliant had been made to the police. I never received the brief of evidence until October 2017 when I was in jail for 4 months and never read it until December 2017. I never received the full brief of evidence as they clearly has no intention of going to hearing. I found it odd my hearing for contempt was on the 4th of May 2017 and at the hearing I raised the fact that I had said the same thing in the email and article in September 2016 and nothing had happened. Then a few weeks later in June 2017 the NSW police raided my unit and took my computers. This was disturbing as both matters were clearly related and were in fact part of the same issue.

Chris DÁeth's and Rebel Kenna's wrote police statements which confirmed that the same people who were trying to stitch me up for the police complaint were also the same people who stitched me up for the contempt charges. They were having trouble getting the police and CDPP to charge me, so they stitched me up in the Supreme Court for contempt where they controlled the outcome then seemed to use that to put pressure on the NSW Police to charge me. Ultimately the CDPP found no crime had been committed with the email and withdrew the charge. At paragraph 10 of Chris D'Aeth's police statement he confirms Chief Justice Tom Bathurst's involvement and oversight of the attempt to stitch me up for jail.

Below is part of an article I published in April 2018 after the CDPP withdraw the charge with some of the time line of events before I said what I said in court on the 3rd of February 2017 which shows Chief Justice Tom Bathurst and others conspiring to have me charged for saying the same thing but more extensively in the email in September 2016.

The article is titled "*CDPP formally drop criminal charges against journalist Shane Dowling in free speech case*" and can be found at:

https://kangaroocourtofaustralia.com/2018/04/02/cdpp-formally-drop-criminal-charges-against-journalist-shane-dowling-in-free-speech-case/

6. The timeline of events as outlined in the police witness statements of Chis D'Aeth, Rebel Kenna and Detective Kristijan Juric.

The most interesting thing about the timeline and police statements is the fact that Chief Justice Tom Bathurst went police shopping to find someone who would

charge me when he had obviously been told that the CDPP and Federal Police wouldn't charge me because no crime had been committed.

6th September 2016 – Tuesday – 11.35pm – I sent email to NSW Supreme Court judges accusing 18 judicial officers of being paedophiles or suspected paedophiles and raising issues of bribery: The email started off:

"I am writing to you all regarding the list of paedophile judges that I intended on making a formal complaint about to the AFP, Australian Crime Commission, NSW Crime Commission and Royal Commission into Child Sexual Abuse. The list is below."

"As we all know corruption in the NSW Courts is widespread and systemic. In July 2015 Fairfax Media and the ABC's Four Corners program reported that NSW judges had been bribed $2.2 million by the Mafia which was confirmed by Justice David Davies in December 2015. Maybe you have evidence that the above judges have also benefited from the Mafia bribes or other bribes. If you have evidence of judicial bribery, please contact me ASAP." (Click here to read more)

6th of September 2016 – (Source: Chris D'Aeth police statement) Registrar Rebel Kenna forwarded my email to Chris D'Aeth, CEO and Principle Registrar of the Supreme Court of NSW. This seems odd as I sent the email at 11.35pm so its hard to see Rebel Kenna checking her email that late at night and then forwarding it on. Maybe it just a mistake by Chris D'Aeth.

8th September 2016 – I published an article titled "Paedophile priest gets 3 months jail for raping 3 boys by NSW Supreme Court's Justice Hoeben" which included a copy of the email from the 6th of September.

8th September 2016 – (Source: Chris D'Aeth police statement) Chris D'Aeth forwarded my email from the 6th September to Jillian Caldwell, Special Counsel for the Crown Solicitor asking for advice.

8th of September 2016 – (Source: Detective Kristijan Juric police statement paragraph 4) Detective Senior Sergeant Day handed a report from the NSW Crown Solicitors Office to Detective Kristijan Juric regarding an alleged telecommunications offence in relation to the email I sent.

Detective Kristijan Juric makes no mention of the CDPP who the matter was later sent to by Chris D'Aeth via his instruction to Jillian Caldwell. Detective Kristijan Juric also fails to mention the AFP which the CDPP forwarded the matter to.

DP

Detective Juric's statement jumps from a complaint on the 8th of September 2016 at paragraph 4 to paragraph 6 where he says:

"6. During my subsequent enquiries I contacted the Crown Solicitors Office of NSW to obtain contact details of persons named in the email and article. As result of these enquires on the 8th of March 2017, Rebel Kenna attended Sydney City Police Station and supplied a statement."

So what did Detective Juric do from the 8th of September 2016 until the Kenna witness Statement on the 8th March 2017. Did he contact the 17 others on the list and why didn't they give police statements? It makes no sense why a complaint was made to the CDPP and Federal Police only days after the complaint was handed to NSW Police Officer Detective Kristijan Juric.

What might make sense is if the complaint was made first to the NSW Police and they said it was a federal crime and needed to go to the CDPP or AFP. Then the CDPP and AFP made a decision that no crime had been committed and then the NSW Police were pressured into charging me because the CDPP and AFP refused to do so. But only one of the 18 named as paedophiles and suspected paedophiles, Rebel Kenna, would make a complaint. I think it is likely that Rebel Kenna was pressured to make a complaint.

During my arrest Detective Kristijan Juric said I could face other charges when they contact the others named in my email. Which means from the 8th of September 2016 until the 21st of June 2017 they had not contacted anyone else named in the email with the obvious question of why not.

9th of September 2016 – I was in court for a mention before Registrar Christopher Bradford. I asked Bradford to stand down given I had published on the internet that he is a suspected paedophile and known bribe taker which I recorded on video. Registrar Bradford refused to stand down. (Click here to watch the video)

20th September 2016 – (Source: Chris D'Aeth police statement) Chris D'Aeth receives an email with a 21 page document attached from Jillian Caldwell giving advice regarding the email.

21th September 2016 – (Source: Chris D'Aeth police statement) Chris D'Aeth discusses advice given by Jillian Caldwell with Chief Justice Tom Bathurst. After the discussion Chris D'Aeth sends Jillian Caldwell an email asking that the matter be sent to the CDPP for consideration

26th September 2016 – (Source: Chris D'Aeth police statement) Chris D'Aeth receives an email from Jillian Caldwell saying she had been emailed by the CDPP and they had referred the matter to the Australian Federal Police for further investigation. I never heard from the AFP or the CDPP.

2nd February 2017 – (Source: Chris D'Aeth police statement) Chris D'Aeth writes a witness statement for the NSW Police. The fact that the NSW Police were back involved must mean the AFP and the CDPP had refused to charge me with any crime.

3rd February 2017 – At court on Friday the 3rd of February 2017 I said something in court and was later charged and found guilty for contempt and for breaching suppression orders that were put on the matter. The contempt matter was heard on the 4th May 2017. I can't say what for as there are suppression orders on it and one of my bail conditions while I wait for sentencing is that I cannot breach the suppression orders again.

8th March 2017 – (Source: Rebel Kenna police statement 8-3-17) Rebel Kenna makes a police statement.

4th May 2017 – The hearing for the contempt was held before Justice Helen Wilson. I was later ordered to serve all Attorney-Generals a Notice of a Constitutional Matter.

One of my key arguments was that I had emailed the court in September 2016 accusing 18 judicial officers of being paedophiles or suspected paedophiles and raised bribery allegations but none of them had complained and I had also published the email in an article in September 2016 and they hadn't complained about that either.

21st June 2017 – I was charged by the NSW police for breaching telecommunications laws for the email that I sent in September 2016 to all the judges of the NSW Supreme Court asking questions and giving them an opportunity to respond to allegations which is nothing more than journalists do around the world every day of the week. The police executed a search warrant on my unit while I was at work and took my computer and the spare one I had which the police said they would give back in about 10 days which forced me to buy a new one. I went to the police station after work and was charged.

I thought the police charge was clearly related to me raising the fact that they had not complained about the email in court on the 4th of May during my defence for

contempt. The police said that they had received a complaint from the Crown Solicitors Office which I remember as taking that they received a complaint from the CEO Leah Armstrong who at that stage had carriage of my case. Lea Armstrong stood down from having day-to-day carriage after the police charge.

The police charge and the fact that it was withdrawn raises many questions that the Court of Appeal and trial judge refused to address. Two of which are:

1. Firstly, what was the Court of Appeal and trial judge doing hearing the matter? If ever there was a time an interstate judge/judges needed to be brought in this was it.
2. How could I be charged for contempt for court for making the allegations in court I made in February 3rd 2017 when the same allegations and more extensive allegations where already before the court in the email I sent to the judges in September 2016 and that was found to be ok as the charge was withdrawn by the CDPP and Justice Wilson has in effect said it was OK. She said it is not what I said but where I said it and how that resulted in my concept charge. She in effect said it is OK if I say it outside court.

7. **Stealing my computer**

The court had my computer while they were prosecuting me and sentencing me for contempt and have given it to Seven / Kerry Stokes so he can use it for his war of law against me.

AFFIRMED by the deponent
at ~~Sydney~~ in NSW
on 14/5/19. BONDI JUNCT 1021

Before me:

Signature

[*name and qualification of witness administering oath or affirmation*]

Signature of deponent

*[delete if inapplicable]

(Ms) Deborah Anne Phillips
A Justice of the Peace in and for
the State of New South Wales
Reg. No. 223899

[Insert this page before the first exhibit, if any]

THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY No. of 20__

Affidavit of Shane Dowling affirmed on 14th of May 2019

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INDEX OF EXHIBITS

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[Notes

Page numbers should be used for ease of reference. Page numbering should continue from the last page of the affidavit on to the index and all exhibits. The page number of each certificate will be the number shown in the "PAGE" column of the index.

30 *This index need not be signed by the deponent or witness.]*

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IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

Seven Network (Operations)
First Respondent
Seven West Media Limited
Second Respondent

EXHIBIT "A"

This is the exhibit marked "A" produced and shown to Shane Dowling at the time of affirming his affidavit this 14/5/19.

Judgment – Justice Lucy McCallum 19 July 2017

Before me

~~Solicitor~~/Justice of the Peace

(Ms) Deborah Anne Phillips
A Justice of the Peace in and for
the State of New South Wales
Reg. No. 223899

Seven Network v Dowling [2017] NSWSC 1803 (19 July 2017)

Last Updated: 11 January 2018

Supreme Court
New South Wales

Case Name:	Seven Network v Dowling
Medium Neutral Citation:	[2017] NSWSC 1803
Hearing Date(s):	18 July 2017
Date of Orders:	18 July 2017
Decision Date:	19 July 2017
Jurisdiction:	Common Law
Before:	McCallum J
Decision:	Computer produced to the court by NSW police to be returned to the defendai order for general access to packets S5 and S6 vacated
Catchwords:	PRACTICE AND PROCEDURE - subpoena
Legislation Cited:	Uniform Civil Procedure Rules 2005 (NSW), pt 23
Cases Cited:	Commonwealth v John Fairfax & Sons Ltd (1980) 147 CLR 39; [1980] HCA 44
Category:	Procedural and other rulings
Parties:	Seven Network (Operations) Limited (1st plaintiff) Seven West Media Limited (2nd plaintiff) Shane Dowling (defendant)
Representation:	Counsel: K Smark SC No appearance for the defendant Solicitors: Addisons (plaintiffs)
File Number(s):	2017/00116771
Publication Restriction:	Non-publication orders have been made in these proceedings

JUDGMENT (DELIVERED ORALLY – REVISED)

1. HER HONOUR: These are proceedings brought by Seven Network (Operations) Limited ("Seven") to restrain the disclosure and use of allegedly confidential information. The proceedings are in the Equity Division of the Court. The circumstances of their coming before me (in the Common Law Division) will be explained shortly.

2. The current defendant to the proceedings is Mr Shane Dowling. Yesterday, Mr Dowling brought an application before me as duty judge in the Common Law Division seeking the return of a computer owned by him which had been seized by police during the execution of a search warrant and later produced by police to the Court in response to a subpoena issued in these proceedings at the request of Seven.

3. At the conclusion of argument yesterday, I directed that the computer be returned to Mr Dowling. That order was made towards the conclusion of the Court's ordinary sitting hours (after lengthy argument). Accordingly, it was necessary to reserve my reasons. These are my reasons for making that order.

4. The circumstances in which Mr Dowling's application was brought may be summarised as follows. The proceedings concern information which came into the possession of a former employee of the plaintiff during the period of her employment. By these proceedings, Seven seeks to restrain the disclosure and use of that material in the hands of a party to whom it is apprehended the material was leaked by the employee. The proceedings were commenced ex parte by summons filed in Court on 19 April 2017. At that stage Mr Dowling was not named as the defendant. The defendant was identified only as "the publisher" of a named website (the website cannot be named; an order has been made prohibiting its publication so as to preserve the interest sought to be vindicated in the proceedings).

5. On 19 April 2017, Ward CJ in Eq made ex parte orders until further order restraining the defendant as then named from using or disclosing the alleged confidential information and requiring certain material to be removed from the website. Her Honour made a further order allowing service by email at the email address nominated on the website.

6. The proceedings came back before her Honour the following day, presumably after service of the summons and orders in the manner directed. There was no appearance for the defendant and the proceedings were adjourned. They were adjourned several times after that; on no occasion did any entity or person appear in response to the description of the defendant as framed in the original summons.

7. On 23 June 2017, the plaintiff filed in court an amended summons naming Mr Dowling as the only defendant. It is not clear on the information I have available to me when Mr Dowling was served with the amended summons or when he was informed as to when the matter was next in court. His first appearance in the proceedings appears to have been before the registrar yesterday at the return of the subpoena. Mr Dowling denies that he is the publisher of the website; the purpose of his appearance was to secure the return of his computer.

8. The subpoena was issued on 5 July 2017 at the request of the plaintiff and was made returnable on 13 July 2017 (according to its terms). The recipient was the Commissioner of the New South Wales Police Force. The documents sought were described in the schedule as follows:

> Documents recording the results of any inspection or analysis of the computers, hard drives, electronic devices or storage devices obtained pursuant to a search warrant executed at [a nominated address];
>
> Any computers, hard drives, electronic devices or storage devices obtained by NSW Police, or copies of any of the information found on same made by NSW Police, as a result of the search warrant executed [at the address nominated] on or around 21 June 2017.

9. Confusingly, although the return date on the face of the subpoena was 13 July 2017, the only entry in the Court's records for that date is a note that the subpoena was returnable the following day, 14 July 2017. I understand Mr Dowling did not appear on either occasion.

10. For reasons that are not clear, the subpoena was stood over to 17 July 2017 before the Registrar. On that occasion, Mr Dowling appeared. Over Mr Dowling's objection, the Registrar made the following orders for access:

> Access only to an approved copying firm, possibly Law in Order, for seven days. General access to the other parties thereafter. The Court further orders that the laptop computer produced to the Court in packet S6 is to be returned to Mr Dowling upon a copy of the hard drive being retained by the Court. That laptop is to be returned to Mr Dowling within seven days if the copy of the hard drive is provided.

11. Mr Dowling came directly from the Registrar's court to the court in which I was sitting as Duty Judge to seek a review of those access orders. He informed me that he had informed his opponents appearing for the plaintiff of his intention to do so and that was confirmed by the fact that in due course they attended the court in which I was sitting.

12. Upon being informed (in the absence of the court file) that the action was brought in the Equity Division, the first issue I raised was whether the proceedings should more appropriately be determined by the Duty Judge sitting in that division yesterday. Mr Dowling indicated his preference to have the issue determined by me owing to my familiarity with issues in other proceedings against him in the Common Law Division, which he contended would have some importance to the issues raised by his application. After conferring, for propriety, with the Duty Judge in Equity, it appeared based on our respective listings that there was greater hearing capacity for an urgent application in this list and that there was no objection to my hearing it. Accordingly, I proceeded to hear Mr Dowling's application.

13. The application was treated in substance as an application for review of the Registrar's access orders. In particular, Mr Dowling, whose computer was seized by police on 21 June 2017, opposed the order allowing an approved copier to hold it fo a further period of up to seven days. The urgency contended for by Mr Dowling was his need to have the computer returned him for a number of purposes, including his urgent need to prepare submissions for sentencing proceedings in a contempt application against him which is listed for hearing before Harrison J on Friday. The plaintiff in those proceedings, or at least some entity associated with Seven, is the moving party on the contempt motion. Mr Dowling also faces separate contempt proceedings which, as I understand the position, are part-heard before Wilson J brought on the application of the Prothonota arising out of remarks Mr Dowling made in Court about a Registrar of the Court.

14. It has also been foreshadowed in these proceedings that Seven will bring a contempt motion against Mr Dowling in respect of the continued publication of the material the subject of the restraining and take-down orders made by Ward CJ in Eq on 19 April 2017. I note that, at the time that order was made, Mr Dowling was not the named defendant to the proceeding It has nonetheless been foreshadowed that a contempt motion will be brought against him as an individual for failure or refus to remove the offending material and for its continued publication. The premise of that application, as I understand the position, would be that Mr Dowling is the same entity as the originally-named defendant to the summons, being "the publishe of the un-nameable website.

15. I considered that the matters relied upon by Mr Dowling to establish an urgent need to have his computer, which is his ow possession, returned to him were sufficiently important to warrant hearing the application on an urgent basis. In light of the urgency of the hearing, it proceeded in an unusual and at times haphazard manner. Neither party had come armed with any evidence, for understandable reasons. I was compelled in the circumstances to inform myself as best I was able by reference to material provided in documentary form and matters stated on each side from the bar table.

16. I should note that the urgency and lack of orderly preparation of the application was not due to any fault on the part of Mr Dowling. Mr Dowling, who represents himself in the defence of these proceedings, was not served with the subpoena until the afternoon of 11 July 2017, less than two days before its first return date according to its terms.

17. In the absence of pleadings (the proceedings having been commenced by summons), the cause of action relied upon by the plaintiff must be discerned from the affidavit evidence that has been read in support of the motions brought to date, being two affidavits of Mr Keegan sworn 19 April and 23 June 2017. The action appears to be based upon the proposition that the former employee of the plaintiff, who it is clear is contractually bound not to use or disclose the confidential information in question, must have disclosed that information to its publisher on the website in circumstances such as to give rise to an equitable obligation on the part of recipient not to use or disclose the information.

18. The existence of a proper cause of action on that premise (such as to found the relief granted ex parte in the Equity Division) appears to be recognised in the authority of the *Commonwealth v John Fairfax & Sons Ltd* (1980) 147 CLR 39; [1980] HCA 44 at page 50. Factually, the cause of action rests on an inference that Mr Dowling is the person who received the information and that he received it in circumstances of the kind contemplated in that authority. It is not appropriate or necessary to determine the strength of any of those contentions beyond being satisfied that there appears to be a proper cause of action in law and one which might reasonably be argued on the facts I was told will be provable at trial. Accordingly, I determined Mr Dowling's application on the assumption that there is a cause of action underlying the orders that have been made to date and the relief sought.

19. The more difficult question was whether it was appropriate to allow another entity to uplift the computer on terms the effect of which was not only to deprive Mr Dowling of possession of his rightful property but to do so in circumstances where his need for access to that property was informed by the impending criminal proceedings against him in the contempt applications to which I have referred.

20. In determining the application, I had regard to the following aspects of the circumstances in which the subpoena came to be issued at Seven's request.

21. First, whilst it may be accepted that Seven was obliged to frame the subpoena in terms which did not impose any obligation in the nature of discovery on the recipient of the subpoena, the Commissioner of Police, it is plain enough that Seven could not have issued a notice to produce or subpoena to Mr Dowling in the terms of the schedule set out above. It would have been necessary to articulate with greater precision the documents or records sought. The schedule to the subpoena to the police as framed is apt to capture a broader range of documents which in all likelihood will include documents that do not have any relevance to any issue in these proceedings.

22. Secondly, it is clear enough that the plaintiff would not otherwise be entitled to uplift and inspect the whole computer. An application for inspection might have been brought under pt 23.8 of the Uniform Civil Procedure Rules 2005 (NSW) but none has been brought forward to date. Any such application at this stage, after a contempt motion has been foreshadowed (as a result of which Mr Dowling, as an individual, faces the prospect of a custodial sentence) would require consideration of the question whether its effect was to compel Mr Dowling to incriminate himself. Where access to the computer is sought by the very party bringing the contempt motion, the court must be astute to adopt a procedure that is fair.

23. Finally, it is unlikely that the plaintiff could have framed the application as one for interim preservation of the computer under part 25.3 (since the proceedings do not concern the computer itself as property) but that, in substance, is the effect of the access orders made by the Registrar.

24. The production of the computer by police after they had seized it in execution of a search warrant was, in effect, pure serendipity for the plaintiff. It created a practical opportunity for them to obtain production of an item I think it would have bee difficult for them to inspect in the ordinary course of the proceedings otherwise.

25. The plaintiff pointed to the importance to its case of preserving any information connecting Mr Dowling with the publicatic of the impugned website. It must be accepted, having regard to aspects of Mr Dowling's conduct, as recorded in other judgments of the court, that that is a live concern. Conversely, however, I was concerned about two matters. One is the fact that the computer was prima facie Mr Dowling's own property. The Court should not lightly interfere with a person's right to possession of their own property in ways which fall outside the ordinary interlocutory processes of the court.

26. Secondly, and more importantly, I was concerned as to the potential impact on Mr Dowling of being deprived of the computer during the important period of his preparation for the sentencing proceedings to be heard by Justice Harrison this Friday and more generally other criminal allegations faced by him. Mr Dowling submitted that he needs the computer for thos purposes. The plaintiff complained that there was no identification by Mr Dowling of any particular category of document he needed for that purpose. In my view, the likely need for the computer is obvious and I did not see that it should fall to Mr Dowling to have to establish that matter on evidence; rather, the assumption should be that he is entitled to have possession of his own asset unless a compelling basis was established for depriving him of it.

27. For those reasons, I vacated the orders for general access made by the Registrar and made orders to facilitate the return of the computer to Mr Dowling late yesterday afternoon.

28. Two further aspects of the circumstances surrounding this application should be noted. The first is that when the proceedings were listed today for publication of my reserved reasons, Mr Smark SC, who did not appear yesterday, very properly drew my attention to a matter which was not clear from the information before the court yesterday, namely, that there were in fact produced to the court by police two packets of documents. Packet S5 contains electronic documents. Packet S6 was the computer, which has now been returned to Mr Dowling. Unbeknownst to the court and, I apprehend, Mr Dowling, packet S5 was the subject of a general access order made on 14 July 2017.

29. The plaintiff has made two copies of those documents, but has not inspected them. The plaintiff proposed, and I agree, that those documents should not be inspected by the plaintiff until some procedure has been put in place to enable Mr Dowling to argue what he appears to have intended to argue all along - namely, that the subpoena ought to have been set aside before documents were produced. To that end, I propose to direct the plaintiff to return both copies of S5 to be held by the Court separately from packet S5 itself. There will be no order granting access to the copies. They will be preserved by the Court in their current form.

30. The second matter is that it emerged towards the end of the hearing yesterday that, during the relatively lengthy period over which the matter was being argued during the day, the authorised copier had in fact already uplifted the computer and was in the process of copying it throughout the day while argument proceeded. While that did not contravene the orders made by the Registrar and was in fact in accordance with those orders, in my view that is a matter which ought to have been brought to the attention of the Court at an earlier point while argument proceeded.

****

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

Seven Network (Operations)
First Respondent
Seven West Media Limited
Second Respondent

EXHIBIT "B"

This is the exhibit marked "B" produced and shown to Shane Dowling at the time of affirming his affidavit this 14/5/19.

Judgment – Justice Kelly Rees 7 December 2018

Before me

.....
~~Solicitor/~~Justice of the Peace

.....
(Ms) Deborah Anne Phillips
A Justice of the Peace in and for
the State of New South Wales
Reg. No. 223899

21

(B)

Supreme Court
New South Wales

Case Name:	Seven Network (Operations) Limited v Shane Dowling
Medium Neutral Citation:	[2018] NSWSC 1890
Hearing Date(s):	27 September 2018
Decision Date:	7 December 2018
Jurisdiction:	Equity
Before:	Rees J
Decision:	Dismiss application for stay; pursuant to s 61(3) of the CPA, dismiss the defendant's mot filed on 12 January 2018; pursuant to r 31.54 UCPR, appoint solicitor to provide assistar access orders with respect to subpoena packet S-5: see [87].
Catchwords:	CIVIL PROCEDURE — Stay of proceedings — Application for removal to High Court of Australia —Prospects of success — Balance of convenience — Stay refused. CIVIL PROCEDURE — Interlocutory applications — Application to transfer to an interstat federal court — Application to set aside subpoena — Want of due despatch — Applicant refused to move on motion — Application dismissed. CIVIL PROCEDURE — Subpoenas — Objection to production of documents or things — represented defendant in civil proceedings — Objection by defendant to subpoena addre to NSW Police —Privilege against self-incrimination — Court expert appointed to identify privileged material.
Legislation Cited:	Civil Procedure Act 2005 (NSW), ss 56, 61(3), 67, 87, 142 Court Suppression and Non-Publication Orders Act 2010 (NSW), s 16 Evidence Act 1995 (NSW), ss 118, 119, 128 Judiciary Act 1903 (Cth), ss 40, 77U Jurisdiction of Courts (Cross-Vesting) Act 1987 (NSW), s 5 Oaths Act 1900 (NSW), s 8(1), sch 4 Supreme Court Act 1970 (NSW), s 53(3) Uniform Civil Procedure Rules 2005, rr 1.3, 12.7, 31.54, 33.5, 33.8, 33.9
Cases Cited:	Attorney General v Markisic [2011] NSWSC 1436 Blanch v Deputy Commissioner of Taxation [2004] NSWCA 461 Carter v Northmore Hale Davy & Leake (1995) 183 CLR 121 Controlled Consultants Pty Ltd v Commissioner for Corporate Affairs (1985) 156 CLR 385 a 393 Ebner v Official Trustee in Bankruptcy [2000] HCA 63; (2000) 205 CLR 337 Environmental Protection Authority v Caltex Refining Co Pty Ltd [1993] HCA 74; (1993) 178

CLR 477 22

Griffin v Council of the Law Society of NSW [2016] NSWCA 275

Harman v Secretary of State for the Home Department [1983] 1 AC 280

Hearne v Street [2008] HCA 36; (2008) 235 CLR 125

Heedes v Legal Practice Board [2005] WASCA 166

Ingot Capital Investments v Macquarie Equity Capital Markets (No 7) [2008] NSWSC 199

Jennings Construction Limited v Burgundy Royale Investments Pty Ltd [1986] HCA 84; (1986) 161 CLR 681

Lange v Australian Broadcasting Commission [1997] HCA 25; (1997) 189 CLR 520

Microsoft Corporation v CX Computer Pty Ltd [2002] FCA 3; (2002) 116 FCR 372

Monteiro v State of New South Wales (No 4) [2016] NSWSC 1626

Pascoe v Divisional Security Group Pty Ltd [2007] NSWSC 211

Prothonotary of the Supreme Court of New South Wales v Dowling [2017] NSWSC 392

Re Colina; ex parte Torney [1999] HCA 57; (1999) 200 CLR 386

Seven Network v Dowling [2018] NSWSC 1803

Waterhouse v Independent Commission Against Corruption [2015] NSWCA 300

Wyong Shire Council v Neuman [2008] NSWSC 1295

Texts Cited: Cross on Evidence (looseleaf, LexisNexis Australia)

Gray, "Contempt and the Australian Constitution – Part I" (2017) 22 Journal of Judicial Administration 3

Category: Procedural and other rulings

Parties: Seven Network (Operations) Limited - First Plaintiff

Seven West Media Limited - Second Plaintiff

Shane Dowling - Defendant

Representation: Counsel:

M Cowden - Plaintiffs

Shane Dowling - Self-Represented

Solicitors:

Addisons Lawyers - Plaintiffs

File Number(s): 2017/116771

JUDGMENT

1. HER HONOUR: In this matter, the defendant filed a motion seeking orders that an interstate judge be appointed to hear the matter or that the matter be transferred to the Federal Court of Australia, and that a subpoena be set aside. The motion came before me for hearing twice. On the first occasion, the defendant sought to adjourn the hearing of the motion, and I granted that application. On the second occasion, the defendant sought a stay of the proceedings and declined to deal with his motion.

2. Before determining the defendant's application for a stay and what, if anything, should be done with the motion, it is necessary to set out the procedural history of this matter. From time to time, the defendant referred to other proceedings in the Common Law Division of this Court which I

understand concerned contempt proceedings in respect of comments made by the defendant about judicial officers (*Common Law Proceedings*). I will also refer to those proceedings where necessary.

PROCEDURAL HISTORY

3. In 2014, the plaintiffs had a dispute with an employee. Following mediation, the plaintiffs and the employee entered into a Deed of Release, the terms of which were confidential and included an agreement by the employee not to publish confidential information. The employee did not comply with the terms of the deed. In 2017, the plaintiffs commenced proceedings against the employee seeking orders restraining the employee from using confidential information in breach of the deed (*Employee Proceedings*). On 13 February 2017, interim orders were made by McDougall J restraining the employee from using confidential information in breach of the deed.

4. On 20 February 2017, the defendant issued a tweet in respect of the Employee Proceedings. On 21 February 2017, McDougall J extended the interim orders concerning the employee and the defendant issued a second tweet on the subject. On 22 February 2017, the plaintiffs became aware of a website which contained commentary on the Employee Proceedings (*New Website*). On 28 February 2017, an existing website associated with the defendant published the Deed of Release (*Old Website*).

5. In April 2017, the defendant sent an email to the plaintiffs' directors and lawyers posing various questions about the employee and then tweeted his email. The defendant published McDougall J's orders, his email to the plaintiffs and his tweets on the Old Website. These items also appeared on the New Website. The plaintiffs' solicitors asked the defendant to delete the tweets, and the defendant agreed to do so.

6. On 19 April 2017, the plaintiffs commenced these proceedings against the publisher of the New Website, seeking various orders restraining the use of material which essentially derived from the Deed of Release. On 19 April 2017, orders were made by Ward CJ in Eq for interim orders restraining the publisher of the New Website from using or disclosing the confidential information and ordering the removal of an article from the New Website. Apparently, these orders were not complied with. At this time the publisher of the New Website had not been ascertained with any certainty and was simply referred to in the pleadings and orders as "Publisher X".

7. On 23 June 2017, the matter came before Slattery J for directions. The plaintiffs had by then formed the view, rightly or wrongly, that the defendant was the publisher of the New Website. The defendant denies this emphatically. The plaintiffs sought leave to amend their summons to refer to the defendant instead of "Publisher X". His Honour granted leave to amend the summons to name the defendant.

The Subpoena

8. In the meantime, on 21 June 2017 the NSW Police executed a search warrant at an address in Bondi Beach. The plaintiffs came to learn of this fact from comments made by the defendant on his website. On 5 July 2017, at the plaintiffs' request, a subpoena was issued to the Commissioner of Police for production of the following material (*the Subpoena*):

> 1. Documents recording the results of any inspection or analysis of the computers, hard drives, electronic devices or storage devices obtained pursuant to a search warrant executed on the address [at] Bondi Beach ... on or around 21 June 2017.
>
> 2. Any computers, hard drives, electronic devices or storage devices obtained by NSW Police, or copies of any information found on same-made by NSW Police, as a result of the search warrant executed on the address [at] Bondi Beach ... on or around 21 June 2017.

The Subpoena required documents to be produced to the Court by 9.00am on 13 July 2017. The Commissioner of Police produced a computer hard drive, which was labelled "S-5" by the Exhibits Office (*the Hard Drive*).

9. On 11 July 2017, a copy of the Subpoena was served on the defendant. Rule 33.5(2) of the *Uniform Civil Procedure Rules 2005* (NSW) (*UCPR*) requires a party at whose request the subpoena is issued to serve a copy of the subpoena on the other parties to the proceedings "as soon as practicable after the subpoena has been served on the addressee". Ordinarily, providing the defendant with the subpoena on 11 July 2017 would not be considered "as soon as practicable" after the subpoena was served on the Commissioner of Police, although I do not know how easy or difficult it was to serve the defendant at that time.

10. On 14 July 2017, the matter was listed for return of subpoena before a Registrar of this Court. There was no appearance by the defendant. The Registrar made a general access order in respect of the Hard Drive. The matter was stood over for further return of the Subpoena on 17 July 2017 at 9.00am. The plaintiffs arranged for the Hard Drive to be uplifted and copied by approved copiers. Later on 14 July 2017, NSW Police produced a laptop in further answer to the Subpoena. The Exhibits Office identified the laptop as "S-6" (*the Laptop*).

11. On the evening of Sunday, 16 July 2017, the defendant sent an email to the Associate to Her Honour Justice McCallum, a judge of the Common Law Division of this court, requesting an urgent hearing on 17 July 2017 to stop the plaintiffs having access to the Laptop, and for an order that the Laptop be returned to him. Apparently, the defendant sent this request to her Honour as she had carriage of two other matters in which the defendant was a party.

12. At 9.00am on 17 July 2017, at the further return of the Subpoena before the Registrar, the plaintiffs sought access to the Laptop. The defendant appeared and opposed the order. After argument, the Registrar made the following order for access:

> Access only to an approved copying firm, possibly Law In Order, for 7 days. General access to the other parties thereafter.
>
> The Court further orders that the laptop computer produced to the Court in Packet S-6 is to be returned to Mr Dowling upon a copy of the hard drive being retained by the Court. That laptop is to be returned to Mr Dowling within 7 days if the copy of the hard drive is provided.

13. At 11.10am on 17 July 2017, the defendant appeared before McCallum J, who was sitting as Duty Judge in the Common Law Division. Her Honour explained to the defendant that there are two divisions in the Supreme Court, being the Common Law Division and the Equity Division. The

defendant asked her Honour to deal with the matter given that she had carriage of the two other matters in which the defendant was a party. The defendant informed her Honour that the material on the Laptop was relevant to his conduct of those proceedings as it had "all my data, it's got privileged information etc". Her Honour agreed to deal with the defendant's application to review the access orders made by the Registrar in respect of the Laptop. At the conclusion of the hearing later that day, her Honour directed the plaintiffs to endeavour to contact the person currently in possession of the Laptop and request that person to make arrangements to have the Laptop returned to her Honour's Associate. Her Honour also vacated the order for access made by the Registrar that day in respect of the Laptop. At 4.57pm, the defendant signed a receipt acknowledging receipt of the Laptop from her Honour's Associate.

14. On Tuesday 18 July 2017 at 2.00pm, her Honour gave an *ex tempore* judgment varying the Registrar's orders to return the Laptop to the defendant and vacate the order for general access with respect to the Hard Drive: *Seven Network v Dowling* [2018] NSWSC 1803. The plaintiffs' senior counsel informed her Honour that a copy of the Hard Drive had been made by approved copiers and delivered to the plaintiffs' solicitors, who had made a further copy but not inspected the Hard Drive. The plaintiffs' counsel offered to provide both copies of the Hard Drive to her Honour. Her Honour noted the following:

> The plaintiff has made two copies of those documents, but has not inspected them. The plaintiff proposed, and I agree, that those documents should not be inspected by the plaintiff until some procedure has been put in place to enable Mr Dowling to argue what he appears to have intended to argue all along – namely, that the subpoena ought to have been set aside before documents were produced. To that end, I propose to direct the plaintiff to return both copies of S5 to be held by the Court separately from packet S5 itself. There will be no order granting access to the copies. They will be preserved by the Court in their current form.

Her Honour stood the matter over before the Equity Duty Judge on 24 July 2017.

15. The two copies of the Hard Drive remain in an envelope in the Court's file marked "No access is to be granted without leave of the Court". As such, of the two items produced by NSW Police, one, the Laptop, was returned to the defendant and the second, the Hard Drive has been copied but the copies are with the Court and the question of access to the Hard Drive is yet to be determined.

Contempt Motion

16. On 21 July 2017, the plaintiffs filed a motion seeking a declaration that the defendant was in contempt of court for breaching the orders made by the Court on 19 April 2017 and related orders (*Contempt Motion*). On 24 July 2017, the matter came before the Equity Duty Judge Rein J for directions. There was no appearance by the defendant. Directions were made for the plaintiffs to serve a statement of claim, evidence in support of the Contempt Motion and for the defendant to file a defence. In addition, his Honour made the following orders in respect of the Subpoena:

> Direct that the defendant is to file and serve any notice of motion in relation to the subpoena (whether to set it aside in whole or in part or otherwise), together with any evidence in support of such motion, by 18 August 2017, should he wish to do so;

His Honour stood the matter over to 25 August 2017.

17. On 9 August 2017, the defendant was sentenced to four months imprisonment. On 25 August 2017, this matter came before Pembroke J for directions. There was no appearance by the defendant as he was in gaol. His Honour made directions for the filing of a defence and affidavits by the plaintiffs in support of the Contempt Motion and, in respect of the Subpoena:

> Direct that the defendant is to file and serve any notice of motion in relation to the subpoena (whether to set it aside in whole or in part or otherwise), together with any evidence in support of such motion, by 29 September 2017.

The plaintiffs were ordered to provide a copy of the orders to the defendant within 7 days and the matter was listed for directions on 3 October 2017 before the Registrar.

18. On 28 September 2017, the Court received a letter from the defendant seeking summary dismissal of these proceedings given the plaintiffs' alleged contempt:

> The applicants are in contempt of the court orders as they were ordered to serve me a copy of the orders within 7 days. They did not serve a copy until the 12/9/17. The applicants should be charged with contempt.

19. On 3 October 2017, the matter was listed for directions before the Registrar. There was no appearance by the defendant who remained in gaol. The Registrar made various orders in respect of the Contempt Motion and also made the following order in respect of the Subpoena:

> The defendant to file and serve any motion in respect to the subpoena issued to the Commissioner of Police either to set aside or otherwise by 24 October 2017. Unless such a motion is filed the Court will consider orders on 7 November 2017.

The defendant was also directed to file and serve any motion regarding a strike out or dismissal of the claim by 24 October 2017, presumably prompted by the defendant's letter to the Court. The Contempt Motion was listed for hearing before Kunc J on 30 January 2018. The matter was also stood over to 7 November 2017 for directions.

20. On 5 November 2017, the defendant sent an email to the Associate of His Honour Justice Kunc seeking a stay of the proceedings until he was released from gaol. The defendant also sent a letter to His Honour in similar terms. On 7 November 2017, the Registrar stood the matter over to 11 December 2017 before His Honour Justice McDougall, presumably as a result of the defendant's correspondence asking for a stay. On 11 December 2017, McDougall J adjourned the matter until 13 December 2017.

21. On 13 December 2017, the defendant appeared and sought an adjournment having regard to his recent release from gaol. The plaintiffs sought access to the Hard Drive as the plaintiffs wished to rely upon the contents of the Hard Drive in support of the Contempt Motion listed for hearing on 30 January 2018, to which the defendant said to his Honour:

> Shouldn't I have a look at it first? It might be a case I don't object.

22. Given the Contempt Motion listed for hearing on 30 January 2018 before Kunc J, McDougall J made the following orders:

> 1. Stand the subpoena over to his Honour's list on 30 January 2018.
>
> 2. Direct that any motion to set aside the subpoena be filed and served, together with the supporting affidavit by 12 January 2018 and that the notice of motion be made returnable before Kunc J on 30 January 2018.
>
> 3. Direct that any affidavit in compliance be filed and served by 24 January 2018 on the subpoena question.

Transfer Motion

23. On 12 January 2018, the defendant filed a motion (*Transfer Motion*) seeking orders that:
. (1) an interstate judge be appointed to hear the matter or that the matter be transferred to the Federal Court of Australia; and
. (2) the Subpoena be set aside.

together with an affidavit in support of the motion. The affidavit contained material from the Common Law Proceedings. As I understand it, the material was proffered by the defendant as indicating that, by reason of remarks that he had made about judicial officers and the Common Law Proceedings, these proceedings could not be heard by any judge of this Court.

24. On 30 January 2018, the Contempt Motion and Transfer Motion came before his Honour Kunc J. The defendant appeared and sought an adjournment to get legal advice. The plaintiffs consented to an adjournment for that purpose but pressed for access to the Hard Drive. The plaintiffs' counsel said he anticipated that the Hard Drive may contain material relevant the Contempt Motion and was also relevant to the substantive proceedings. The transcript contained the following exchange:

> DEFENDANT: One thing I did offer last year was "Okay, let me have a look at the file." If there's nothing there I object to, they can have it. I don't care.
>
> ... SMARK: — we agree.
>
> HIS HONOUR: Sometimes the sun shines in my court, and it's shining at the moment and they agree.
>
> DEFENDANT: Yes.
>
> HIS HONOUR: So I will make an order in due course for access to you.

25. His Honour noted that, as the defendant was not a lawyer and was not subject to the duties that a lawyer normally had to the Court, an appropriate regime needed to be in place so that, when the defendant inspected the Hard Drive, the documents remained under the control of the Court. The plaintiffs said that they were willing to pay the costs of having a court approved copier make a complete copy of the Hard Drive for the defendant. The defendant expressed disquiet about the Hard Drive leaving the Court to be copied as this created an opportunity for other people to get copies of the Hard Drive. His Honour invited the parties to discuss a practical way to enable the defendant to inspect the Hard Drive and to inform his Honour's chambers of what agreement or arrangements were reached. The defendant suggested that an option might be that he come in with his own laptop and charger and sit and have a look at it:

> My personal gut feeling is there is quite possibly nothing I am going to object to. But I am not a criminal expert, and I have got lawyers that should get appointed soon...

26. After further discussion, the defendant decided that he would not inspect the Hard Drive until he had obtained legal advice. His Honour made the following orders:

> 1. Directs the proceedings, including the proceedings generally, the plaintiffs' motion filed 21 July 2017 and the defendant's motion filed 12 January 2018 are all stood over for further directions before Kunc J at 9.30am on 1 March 2018.
>
> 2. Notes that the Commissioner of Police does not object to access to the parties being granted to subpoena packet S5.
>
> 3. Notes that the plaintiffs do not object to the defendant having first access to the subpoena packet S5.
>
> 4. Directs that if the defendant wishes to exercise his right of first access to subpoena packet S5, the defendant has leave by email to the Associate to Kunc J to propose directions which the Court should make for him to exercise that right.

27. On 28 February 2018, the defendant communicated with the Associate to His Honour Kunc J advising that he had just been approved for Legal Aid and Legal Aid was in the process of briefing counsel. The defendant asked that the hearing the next day be adjourned. His Honour adjourned the hearing to 10 April 2018.

28. On 10 April 2018, the defendant appeared but without legal representation. The defendant informed his Honour that his legal representation had in fact been approved for another matter which had resolved. The plaintiffs' counsel sought again to formulate a means by which the defendant would inspect the Hard Drive. The plaintiffs' counsel indicated that the contents of the Hard Drive were thought to contain information which might show that the defendant was the author of the publications which are the subject of the proceedings, and also the subject of the Contempt Motion. The defendant added:

> I did bring my laptop to check the packet 5. I can do it today.

29. The parties then discussed the defendant inspecting the Hard Drive as follows:

> ...HIS HONOUR: Before we come to your motion and the plaintiff's motion, do you need to inspect the subpoena packet?
>
> DOWLING: The motion is to have it transferred to another court and I think, transferred to another court or have an interstate judge brought in. I think we should, I don't know if I need to. I don't think I need to. That is probably an issue for the next court or the next judge.
>
> HIS HONOUR: No, it is an issue for you. If you want to look at material on subpoena, you are entitled to. It seems to have been something you have raised on earlier occasions. Now, if you want to inspect the material I will make some directions to make sure that that happens. If you don't want to inspect the material I will make some directions to get the motion or motions ready for hearing
>
> ...
>
> SMARK: We would ask if Mr Dowling does not wish to exercise his right at first access, I didn't understand him [to] say definitely one way or the other.
>
> HIS HONOUR: That is correct, I didn't understand him to go one way or the other either.
>
> SMARK: Once that matter has been resolved, that election has been made, we would ask that the plaintiffs have a right of access. That is discrete matter and that would seem to be able to be done in short order.
>
> ...

30. Further discussion ensued as to whether prayer 1 of the Transfer Motion should be heard first, being the application to transfer the proceedings to another court, or whether the Transfer Motion and the Contempt Motion should be heard together. The following exchange occurred:

> HIS HONOUR: I should go back a step. We will go back a step. Do you wish to exercise your right to inspect subpoena packet S5?
>
> DOWLING: I certainly do but I think that should be put after this is heard because if it goes to another court it will be dealt with there.
>
> HIS HONOUR: Do you object in the meantime to the plaintiffs having access to subpoena packet S5?
>
> DOWLING: Yes, I do, because if you see order 2 that I am seeking, is that the subpoena at least be set aside as an abuse of process.
>
> HIS HONOUR: I thought that had gone away, that you were simply content, as long as you had first access, the problem of the subpoena would go away.
>
> DOWLING: No, why would it, if I have a look at it and it has got personal information on there that they should not have, what they are doing is a matter of a fishing expedition.
>
> SMARK: I am not seeking to shut Mr Dowling out of the right to move to set aside the subpoena but the anterior step is for him to have a look at the documents. He is obdurately declining to look at them one way or the other. Now if he wishes to see them, he should now agree to the terms on which that access is permitted, and if he has no objection we can see them, if he does not, we can take another course.
>
> HIS HONOUR: Yes
>
> DOWLING: I can do that, your Honour, but the point is, if I get up on number 2, it has been a waste of my time in the meantime.
>
> HIS HONOUR: Mr Dowling, I am not going to allow the prayers in this motion to be approached like a buffet where we have a nibble

at order one, and then if we have not had enough to eat we move to order 2. This is an a la carte menu where the whole thing has to be dealt with in one go. You need to be in a position to argue both for your transfer and presumably there is still some point no matter what happens in relation to order one, dealing also with the subpoena point.

DOWLING: Okay, [that] we can organise, I came with my laptop today so I can do it now if you want to give me the time.

HIS HONOUR: I will give you leave to inspect that material. We will need to work out what happens as a result of your inspection because if there is, and what I would expect, Mr Dowling, there may be material, I withdraw that.

I don't know where you are going to want to take it after you have inspected the contents. You may come to the view that there is nothing there, there is no problem with the other side inspecting it and the whole thing may go away but step 1 is for you to inspect the documents. When can you do that by?

DOWLING: Well, I can do that right now. I don't know if there is much on there. If there is very little on there, well, it would probably take me five minutes to look at it.

31. Further lengthy discussion ensued as to when suited the defendant to inspect the Hard Drive and whether he wished to put on any further affidavits in support of the Transfer Motion. Ultimately, the defendant suggested:

How about 2[pm], based on that police file only taking a few minutes to look at. If it is a mile long, well I don't know but if it is only short it will only take me five to ten minutes but if it is a two to three hour job, leave it at 2, if it is too extensive I can contact the parties.

32. His Honour agreed, but then the defendant repeated his contentions that the Subpoena should be set aside completely. The hearing continued:

DOWLING: The thing is, I don't believe they are entitled to access it because the original charge which enabled the police to raid my house, was malicious prosecution, was withdrawn. An open and shut case of malicious prosecution. Open and shut case of malicious prosecution.

HIS HONOUR: Mr Dowling, if you want to take that position, then that would suggest that you have no need to look at what is on that file. So you decide what you want to do, if you just want to say, point blank, they are not allowed to look at it and it should be set aside, that is your right and I will proceed to make directions about that.

DOWLING: Yes that is the way to go, your Honour.

SMARK: It is for Mr Dowling to take the course that he wishes to take.

33. As a result, his Honour indicated he would not make an access order. Rather, the Transfer Motion would be heard *before* the Contempt Motion. His Honour clarified whether, in light of the defendant's motion to transfer the proceedings to another court, the defendant objected to any particular judge in the Equity Division hearing the Transfer Motion.

HIS HONOUR: ... The matter is in Equity, so may I take it then that you have no objection to any judge in the Equity Division dealing with this matter.

DOWLING: At the end of the day, no, based on my application, obviously I have no objection to anyone in this Court dealing with any of these matters going forward, someone has to hear it in the first place.

34. Further discussion ensued between the parties as to an appropriate timetable for the defendant to put on any further evidence and submissions in respect of the Transfer Motion. Eventually, his Honour made the following orders:

1. The defendant is to serve any additional evidence on or before 4 May 2018 in relation to both prayers 1 and 2 of the defendant's Notice of Motion filed on 12 January 2018.

2. The plaintiff is to serve any evidence in response on or before 18 May 2018.

3. Any evidence in reply and an outline of submissions is to be served by the defendant on or before 4 June 2018.

4. The plaintiff is to serve an outline of submissions on or before 11 June 2018.

5. The matter is listed before a Registrar in Equity on 13 June 2018 for the purpose of a hearing date being fixed in relation to prayers 1 and 2 of the defendant's notice of Motion filed 12 January 2018.

6. There to be liberty to restore before the Registrar to any party on 3 days' written notice.

7. The Court notes that today Mr Dowling was given the opportunity, if he wished, to exercise his right of first access to subpoena packet S5, however Mr Dowling elected not to do so in favour of pressing his application that the subpoena to the Commissioner of Police be set aside.

35. On 12 June 2018, the defendant filed a further affidavit in support of the Transfer Motion. The affidavit largely duplicates the material accompanying his first affidavit.

36. On 13 June 2018, the matter came before the Registrar, as Kunc J had ordered that it would. The defendant appeared. The Registrar listed the motion for hearing at 10.00am on 13 September 2018 with an estimated hearing time of one day. The Registrar made orders for the parties to file any further evidence and submissions in respect of the Transfer Motion, including that the defendant file and serve any evidence and submissions in reply by 25 July 2018.

37. It is the practice of the Equity Division, as set out in Supreme Court Practice Note SC Eq 1, "Supreme Court Equity Division – Case Management in the Equity General List" that Court Books are prepared for the hearing of interlocutory applications. The usual order for the hearing of interlocutory applications is:

> No later than 5.00pm on the Wednesday before the hearing date, the parties are to deliver to the Associate to the Applications List Judge a paginated Court Book containing the evidence, any objection thereto and a short outline of submissions.

38. Ordinarily, the Court Book is prepared by the applicant on the motion, which in this case would be the defendant. A Court Book was not provided to my chambers and, observing that the defendant was self-represented, my Associate contacted the clerk of the plaintiffs' senior counsel and asked that a Court Book be prepared. On 10 September 2018, the plaintiffs' solicitor emailed my Associate, copying the defendant, advising that there may be difficulties making the Court Book available to the defendant as he was in gaol and had indicated in separate proceedings in the Common Law Division that he did not wish to be required to attend court in person but rather by audio visual link. Nonetheless, the plaintiffs' solicitors agreed to compile and send a Court Book to the gaol. On being informed that the defendant was in prison, I made orders for the defendant to appear by audio visual link.

39. On 11 September 2018, a Court Book was delivered to the prison. On 12 September 2018, the defendant was provided with the Court Book. The Court Book contained the following material:

Document	Filed on behalf of	Date
Summons	Plaintiffs	19 April 2017
Plaintiffs' motion	Plaintiffs	19 April 2017
Affidavit of plaintiffs' solicitor and confidential exhibit	Plaintiffs	19 April 2017
The Subpoena	Plaintiffs	5 July 2017
Contempt Motion	Plaintiffs	21 July 2017
Statement of Claim	Plaintiffs	31 July 2017
Affidavit of plaintiffs' solicitor	Plaintiffs	11 December 2017
Transfer Motion	Defendant	12 January 2018
Affidavit of defendant in support of Transfer Motion	Defendant	12 January 2018
Transcript before Kunc J		30 January 2018
Transcript before Kunc J		10 April 2018
Further affidavit of defendant in support of Transfer Motion	Defendant	12 June 2018
Written Submissions	Plaintiffs	26 July 2018

First hearing

40. On 13 September 2018, the hearing of the Transfer Motion was listed before me. The defendant appeared by audio visual link. The defendant informed me that he did not have the Court Book with him in the video booth and had only been given 10 minutes' notice of the hearing by prison officers. The defendant said he was not in a position to proceed with the hearing and would not be in a position to do so until he was released from gaol. I indicated that I was not minded to adjourn the hearing of the Transfer Motion given the procedural history of the matter. The defendant said he had been denied natural justice, did not have access to all of his documents, was otherwise engaged in preparing for other court proceedings, repeated his remarks about judicial officers and lay on the floor of the video booth. The court adjourned until a correctional officer provided the defendant with the Court Book in the video booth and he was given an opportunity to resume his seat.

41. After the adjournment, the defendant declined to participate in the proceedings and declined to identify the affidavits which he relied upon in support of the Transfer Motion. The defendant sought an adjournment of the hearing of the Transfer Motion until he was out of gaol which "should be 21 September 2019" which was, obviously, a year away. The plaintiffs indicated they agreed to an adjournment of two weeks. I agreed to adjourn the motion to 11.30am on 27 September 2018. I made the following orders:

> 1. On the defendant's application for an adjournment of the hearing of his motion filed on 12 January 2018, and with the consent of the plaintiffs to that application, I adjourn the hearing of the motion to 11.30am on 27 September 2018.
>
> 2. I grant leave to the defendant to provide any written submissions in support of his motion by Monday 24 September 2018. Those submissions may be facsimiled to my chambers and copied to the plaintiff's legal representatives.

3. I reserve the costs of today.

42. After the conclusion of the hearing, the orders which I had made were sent by facsimile to the defendant, and the prison confirmed that the orders had been provided to the defendant at 12.14pm.

Application for Removal

43. On 23 September 2018, the defendant faxed to my chambers an Application for Removal to the High Court of Australia. The defendant noted in his cover email:

> Given the application, the matter before your Honour should be stayed until the High Court of Australia has handed down a judgment on the application for removal.

The basis for the application was, essentially, the same as prayer 1 of the Transfer Motion.

Second hearing

44. On 27 September 2018, the Transfer Motion was listed before me at 11.30am for hearing. The defendant appeared by audio visual link. I proposed to treat the Application for Removal as an application for a stay and to deal with the application for a stay and the Transfer Motion by receiving evidence and submissions from the parties on both applications; reserving judgment on both applications; and, in the event that grant the stay, giving judgment on the stay application only. The defendant refused to deal with Transfer Motion until he was released from gaol. He said he was being denied natural justice and his human rights. He repeated his remarks about judicial officers.

45. The plaintiffs were not aware of the Application for Removal but agreed to proceed nonetheless. I heard, firstly, the defendant's application for a stay and then endeavoured to deal with the Transfer Motion. The defendant again indicated in no uncertain terms that he was not going to proceed on his motion. I informed him that, if he refused to participate in the hearing of the Transfer Motion, I may dismiss the motion because he declined to progress it. I asked him to identify the evidence that he relied upon in support of the Transfer Motion and he declined to do so. He declined to deal with the Transfer Motion.

46. The plaintiffs sought dismissal of the Transfer Motion and an order for general access in respect of the Hard Drive. I expressed a concern that there may be material on the Hard Drive which was subject to a claim for legal professional privilege and I did not wish that any privilege be lost by granting general access. I suggested that the court might appoint an expert in the first instance to identify any privileged material so that the defendant's privilege was preserved. The plaintiffs did not oppose the defendant having first access to identify privileged material nor to appointing an expert who would attend to this task given that the defendant was in prison and not legally represented. The defendant then made submissions which were largely not directed to the matters being discussed at the time but observations of a more general nature.

APPLICATION FOR A STAY

47. The fact that the defendant has filed an Application for Removal under section 40 of the *Judiciary Act 1903* (Cth) with the High Court of Australia does not, without more, stay these proceedings. The Court does not have a specific statutory power to stay the proceedings where an Application for Removal has been filed with the High Court, unlike the power to stay proceedings in the event of an appeal to the High Court (section 77U, *Judiciary Act*), the power of the Court of Appeal to order a stay of the decision below (rule 51.44, UCPR) or where proceedings are transferred between the Local Court, District Court or Supreme Court of New South Wales (section 142, *Civil Procedure Act 2005* (NSW)). In each of these situations, a stay does not automatically follow simply by reason of having lodged an appeal or having transferred a case from one court to another.

48. The Court has a general power to order a stay under section 67, *Civil Procedure Act:*

> Subject to rules of court, the court may at any time and from time to time, by order, stay any proceedings before it, either permanently or until a specified day.

49. In deciding whether to stay proceedings, the Court must weigh the prejudice to each party in light of the prospects of success in the higher Court. In *Jennings Construction Limited v Burgundy Royale Investments Pty Ltd* [1986] HCA 84; (1986) 161 CLR 681, Brennan J said at 685:

> In exercising the extraordinary jurisdiction to stay, the following factors are material to the exercise of this Court's discretion. In each case when the Court is satisfied a stay is required to preserve the subject matter of the litigation, it is relevant to consider: first, whether there is a substantial prospect that special leave to appeal will be granted; secondly, whether the applicant has failed to take whatever steps are necessary to seek a stay from the court in which the matter is pending; thirdly, whether the grant of a stay will cause loss to the respondent; and fourthly, where the balance of convenience lies.

50. A case which has some similarities to the one before me is *Griffin v Council of the Law Society of NSW* [2016] NSWCA 275. Mr Griffin, a solicitor, appealed to the Court of Appeal against a finding of professional misconduct made by the NSW Civil and Administrative Tribunal of New South Wales (NCAT) and also filed an Application for Removal to the High Court. Enforcement of NCAT's orders was stayed by the Court of Appeal pending determination of the appeal to it. However, a stay of proceedings in the Court of Appeal in light of the Application for Removal was refused. His Honour Emmett AJA considered the prospects of success in the High Court, the delay in bringing the removal proceedings and the costs that would be occasioned by vacating the hearing of the appeal: at [33]–[35].

51. Adopting these principles, I do not think there is a substantial prospect that that the High Court will accede to the defendant's Application for Removal. Section 40 of the *Judiciary Act* provides (emphasis added):

(1) Any cause or part of a cause *arising under the Constitution or involving its interpretation* that is at any time pending in a federal court other than the High Court or in a court of a State or Territory may, at any stage of the proceedings before final judgment, be removed into the High Court under an order of the High Court, which may, upon application of a party for sufficient cause shown, be made on such terms as the Court thinks fit, and shall be made as of course upon application by or on behalf of the AttorneyGeneral of the Commonwealth, the AttorneyGeneral of a State, the AttorneyGeneral of the Australian Capital Territory or the AttorneyGeneral of the Northern Territory.

(2) Where:

(a) a cause is at any time pending in a federal court other than the High Court or in a court of a Territory; or

(b) there is at any time pending in a court of a State a cause *involving the exercise of federal jurisdiction by that court*;

the High Court may, upon application of a party or upon application by or on behalf of the AttorneyGeneral of the Commonwealth, at any stage of the proceedings before final judgment, order that the cause or a part of the cause be removed into the High Court on such terms as the Court thinks fit.

52. It is not clear to me that these proceedings include a cause "arising under the Constitution or involving its interpretation" nor "a cause involving the exercise of federal jurisdiction" by the Supreme Court of New South Wales. The Application for Removal does contain the word "constitution" and cites *Lange v Australian Broadcasting Commission* [1997] HCA 25; (1997) 189 CLR 520. It may be that the defendant has in mind an argument concerning the implied freedom of political communication, or perhaps an argument that the common law of contempt is an impermissible burden on that implied freedom, although the Application for Removal does not say so: see Gray, "Contempt and the Australian Constitution – Part I" (2017) 22 *Journal of Judicial Administration* 3. Even if that is what the defendant has in mind, it is not clear to me how such an argument arises out of *these* proceedings, which concern whether "Publisher X" has published material in breach of confidentiality obligations arising from the Deed of Release between the plaintiffs and their employee.

53. Rather, the basis of the Application for Removal is, as I understand it, that by reason of the Common Law Proceedings, these proceedings cannot be heard by any judge of this Court. The disqualification of judges is not a matter of a constitutional character: *Ebner v Official Trustee in Bankruptcy* [2000] HCA 63; (2000) 205 CLR 337; *Waterhouse v Independent Commission Against Corruption* [2015] NSWCA 300 at [7]–[8]. In any event, the weight of authority suggests that such an application will likely fail. A not dissimilar argument was considered by the High Court in *Re Colina; ex parte Torney* [1999] HCA 57; (1999) 200 CLR 386, which concerned contempt proceedings in the Family Court of Australia. The facts were outlined by Gleeson CJ and Gummow J at [7]:

> It is alleged that, during July and August 1998, Mr Torney demonstrated outside the Family Court building in Melbourne, distributing written material to members of the public, and making abusive remarks about the Family Court and its members. Some of the comments attributed to Mr Torney were expressed in very strong terms, blaming the court and its judges for the deaths of people and for instances of child abuse, describing the judges as being "terrorised" by women's organizations, and claiming that "decisions are being made on a daily basis destroying the lives of innocent children". The literature said to have been handed out by Mr Torney complained of bias against men. It asserted that if people knew the nature of orders made by judges, the likely consequence would be violent action towards the judges. Judges were said to make decisions "based on their twisted morals" and are "protected by ... secrecy".

54. Proceedings against Mr Torney for contempt were listed for hearing before Burton J. Before the charges came on for hearing, a national conference of the Family Court of Australia was held in Melbourne at which the Chief Justice, Nicholson CJ, made a speech and gave interviews in which he vigorously defended the Family Court against public attacks on the institution, including by saying:

> The most strident critics of the court emanate from groups of men who regard themselves as having been badly treated by the family court system. ...there is a more sinister element at work. ... Many demonstrate in strident terms outside the Court.

55. Mr Torney contended that one would have little difficulty in identifying him as being amongst the "strident critics" referred to or as being a representative of the "sinister element" said to be "at work": at [10]. Mr Torney said this created the appearance of institutional bias in the Family Court of Australia and he sought an order that Burton J be prevented from hearing the contempt allegation. Gleeson CJ and Gummow J noted at [29]:

> The flaw in the argument is that it assumes a relationship between a Chief Justice and a member of his or her court which is contrary to fundamental principles of judicial independence. It is frequently overlooked that the independence of the judiciary includes independence of judges from one another. The Chief Justice of a court has no capacity to direct, or even influence, judges of the court in the discharge of their adjudicative powers and responsibilities.

56. Similarly, Callinan J noted at [142]:

> ...on any view it cannot be said that the remarks made by the Chief Justice in the circumstances in which he made them could possibly give rise to any apprehension of bias on the part of the different judge who is to try the charges. Dissents from, and disagreements with judgments of chief justices of all courts are not uncommon. Judges are bound to, and reasonable observers would appreciate that they will, try cases on the evidence before them and apply the law as they take it to be.

57. Likewise in *Heedes v Legal Practice Board* [2005] WASCA 166, the Legal Practice Board filed a motion alleging contempt of court against Mr Heedes for purporting to act as a legal practitioner without being admitted to practice. The motion for contempt was listed for directions before a Master, who made intemperate remarks about Mr Heedes. The motion for contempt was listed before McKechnie J. Mr Heedes admitted he was not a certificated legal practitioner and his Honour found that contempt had been proved. Mr Heedes appealed, citing the intemperate remarks of the Master as giving rise to a reasonable apprehension of bias with the consequence that Mr Heedes was denied procedural fairness. The appeal was dismissed. As Roberts-Smith JA noted at [50]:

> Here the appellant points to nothing said or done by the trial Judge, but relies wholly on inferences (which I consider to be unreasonable in any event) from comments made by the master which do not purport to convey or reflect any view taken or likely to be taken by the trial judge.

58. Of course, in both cases, a court officer had made a comment which was said to give rise to an apprehension of bias. Here, the defendant does not point to anything said by a judicial officer but, rather, to what *he* has said about judicial officers as somehow preventing other judges of this Court fairly deciding other proceedings in which he is a party.

59. I note that a similar application was made by Oliver and Dragan Markisic to Schmidt J in *Attorney General v Markisic* [2011] NSWSC 1436. Her Honour was asked to disqualify herself on the basis that a fair minded observer would form the view that she was biased and, at [20]:

> ... that not only I, but any Supreme Court Judge would not be able to distance himself from this case and would not be able to bring an impartial mind to the proceedings.

60. The Markisics suggested that it was necessary for the court to make arrangements to have a judge from another country appointed to preside in the proceedings. Her Honour did not accept this submission. At [25]:

> That a fair-minded observer could come to the view, in the circumstances that had arisen, that neither I nor any other member of this Court could bring an independent or impartial mind to the determination of the issues arising in these proceedings, cannot be accepted. Broad unsupported assertions as to errors in previous proceedings and judgments, is not a basis upon which such a claim could be established. Nor is the fact that the defendants have wide ranging complaints about the conduct of the Crown Solicitor, Mr Ian Knight, and against various other people, a basis upon which such a claim could be accepted.

61. The defendant made a similar application in *Prothonotary of the Supreme Court of New South Wales v Dowling* [2017] NSWSC 392 that an interstate judge be appointed for the hearing of the Common Law Proceedings because the allegations made against him concerned allegations which he had made against Judges and a Registrar of this court. Her Honour Justice Adamson dismissed his application. At [9]:

> I consider the distinction drawn by Ms Mitchelmore, on behalf of the plaintiff, to be apt, in my view, because these contempt proceedings concern the conduct of Mr Dowling in making the allegations, as opposed to the conduct of the judicial officer themselves, it is not necessary to appoint an interstate judge. Moreover, the power of a particular court to deal with proceedings for contempt is pre-eminently one which in my view ought be dealt with by the court itself as constituted by judges whose commissions are to the particular court.

62. Her Honour was obviously correct. The proceedings before me are even further removed from the circumstances considered by Adamson J. These proceedings concern an application by the plaintiffs for relief by reason of the defendant's disclosure of the confidential information in the Deed of Release between the plaintiffs and their former employee. Whatever the defendant has said about judicial officers is irrelevant to the subject matter of these proceedings.

63. Overall, it seems to me that even if the subject of these proceedings gives rise to an issue of the character referred to in section 40 of the *Judiciary Act*, the prospects of success of the Application for Removal being acceded to by the High Court are low as the only argument I can infer from that document is contrary to authority.

64. Further, the balance of convenience favours the plaintiffs. These proceedings were commenced in April 2017. The question of the access to the Hard Drive has been in issue since July 2017. The Transfer Motion has been on foot since January 2018. There is a protracted history of delay which I have earlier set out. The defendant did not file the Application for Removal until after the hearing of the Transfer Motion on 13 September 2018 was adjourned. No explanation for the delay in filing the Application for Removal was given. In these circumstances, I refuse the defendant's application for a stay.

WHAT TO DO WITH THE TRANSFER MOTION

65. Section 61(3) of the *Civil Procedure Act* gives the Court power to make orders where the Court's directions have not been complied with, including by dismissing or striking out part or all of a claim and making such order as it considers appropriate.

66. The court may also order that proceedings be dismissed if a party does not prosecute the proceedings with due dispatch: rule 12.7, UCRP. While the rule is directed to proceedings as a whole, Schmidt J made an order under this rule in similar circumstances to those before me in *Monteiro v State of New South Wales (No 4)* [2016] NSWSC 1626. Her Honour explained, at [23]–[24]:

> Mr Monteiro has had a fair opportunity to pursue that motion, if he wished. He has not pursued it, as he ought to have done, even given that he is in custody and has suffered ill health. In those circumstances it should be struck out for want of due despatch, as Rule 12.7(1) of the Uniform Civil Procedure Rules 2005 (NSW) contemplates.
>
> What must be borne in mind by both litigants and the Court is the requirements of s 56 of the *Civil Procedure Act 2005* (NSW), which

imposes obligations on the parties to assist the Court to facilitate the overriding purpose there specified, namely, "the just, quick and cheap resolution of the real issues in the proceedings", particularly by participating in the processes of the Court and complying with its directions and orders.

67. The defendant has refused to move on the Transfer Motion, twice. It is his motion. The Transfer Motion was filed six months after the Subpoena was first returnable before the Registrar, and only then after orders were made on four occasions to file such a motion. This was referable to the defendant being unable to appear due to his imprisonment, and I do not criticise him for this. After release from gaol, another eight months passed between the filing of the Transfer Motion and the hearings before me, during which time the hearing of the Transfer Motion was adjourned four times. Whilst the defendant went back to gaol in August 2018, he was able to appear before me by video link on both occasions in September 2018.

68. The procedural history of the Transfer Motion, and indeed the proceedings generally, indicate that the defendant has engaged in significant 'ducking and weaving' in respect of the Transfer Motion in general and the Hard Drive in particular. The defendant has from time to time offered to inspect the Hard Drive to determine whether, in fact, he has any objection to general access but, ultimately and on each occasion, refrained from doing so. The defendant has, by his actions and inaction, endeavoured, it appears to me, to bring these proceedings generally and the Contempt Motion in particular, to a halt. This is not how the procedures of the Court work.

69. At the adjourned hearing of the Transfer Motion on 27 September 2018, the defendant had adequate notice that his motion was to be heard on that occasion. The defendant had adequate time to prepare the motion for hearing. The defendant had the materials on which he relied in support of the motion with him, and had those materials since at least 11 September 2018, being the date when the Court Book was provided to him in gaol. He was familiar with those materials in any event, having prepared the motion and affidavits himself several months earlier. Having regard to these circumstances, section 61(3) of the *Civil Procedure Act* and to the "overriding purpose" in section 56 of the Act, I dismiss the Transfer Motion.

ACCESS TO THE HARD DRIVE

70. I am not prepared to make an order for general access to the Hard Drive as there may be material on the Hard Drive in respect of which the defendant may be entitled to claim client legal privilege under sections 118 or 119 of the *Evidence Act 1995* (NSW).

71. In addition, by the Contempt Motion, the plaintiffs seek declarations that the defendant was in contempt of Court for breaching the non-disclosure order made by Ward CJ in Eq on 19 April 2017 and has committed offences under section 16 of the *Court Suppression and Non-Publication Orders Act 2010* (NSW), which provides:

> (1) A person commits an offence if the person engages in conduct that constitutes a contravention of a suppression order or non-publication order and is reckless as to whether the conduct constitutes a contravention of a suppression order or non-publication order.
>
> Maximum penalty: 1,000 penalty units or imprisonment for 12 months, or both, for an individual or 5,000 penalty units for a body corporate.
>
> (2) Conduct that constitutes an offence under this section may be punished as a contempt of court even though it could be punished as an offence.
>
> (3) Conduct that constitutes an offence under this section may be punished as an offence even though it could be punished as a contempt of court.
>
> (4) If conduct constitutes both an offence under this section and a contempt of court, the offender is not liable to be punished twice.

72. In light of this, a privilege against self-incrimination must be considered, although the defendant did not seek to invoke the privilege. A witness may object to giving evidence on the ground that the evidence may tend to provide that the witness has committed an offence or is liable to a civil penalty. Section 128(1) of the *Evidence Act 1995* (NSW) provides (emphasis added):

> This section applies if *a witness* objects to giving particular evidence, or evidence on a particular matter, on the ground that the evidence may tend to prove that *the witness*:
>
> (a) has committed an offence against or arising under an Australian law or a law of a foreign country, or
>
> (b) is liable to a civil penalty.

Obviously enough, the section requires that the person claiming the privilege is the same person from whom the evidence is sought, hence, a privilege against *self*-incrimination.

73. Section 128 applies equally to giving oral testimony and the production of documentary evidence. This reflects the common law position as explained in *Environmental Protection Authority v Caltex Refining Co Pty Ltd* [1993] HCA 74; (1993) 178 CLR 477 by Mason CJ and Toohey J at 502:

> ...the production of documents pursuant to process of law, such as a subpoena duces tecum, involves some testimonial aspects. Thus, by producing the documents described, the person producing them admits that the documents existed, were in his or her possession or power and that they are authentic in the sense that they match the description which they have been given.

74. However, a person who may be incriminated cannot make a claim so as to prevent another person revealing the incriminating information: *Cross on Evidence* (looseleaf, LexisNexis Australia) at [25075]. As Gibbs CJ and Mason and Dawson JJ explained in *Controlled Consultants Pty Ltd v Commissioner for Corporate Affairs* (1985) 156 CLR 385 at 393 (citations omitted):

> ... whilst the privilege ... would protect a person against a requirement that he produce or identify incriminating documents or reveal their whereabouts or explain their contents in an incriminating fashion, it has no application to the seizure of documents or their use for the purpose of incrimination provided they can be proved by independent means. The privilege is not a privilege against incrimination; it is a privilege against self-incrimination. In relation to documents, the privilege against self-incrimination may be contrasted with legal professional privilege which ... affords protection against the seizure documents which fall within the ambit of the privilege.

75. Or as Deane J explained in *Carter v Northmore Hale Davy & Leake* (1995) 183 CLR 121 at 140:

> While the privilege against self-incrimination extends to the production of documents by the person who would be imperilled (see *Controlled Consultants Pty Ltd v Commissioner for Corporate Affairs* ... at 393 ..., it is difficult to see how it could, as a matter of principle, apply to the production of documents by that person's lawyer, bailee or agent since the "privilege is not a privilege against incrimination; it is a privilege against self-incrimination" *Controlled Consultants* (1985) 158 CLR 385 at 393. See, eg, *Rochfort v Trade Practices Commission* [1982] HCA 66; (1982) 153 CLR 134 at 145; *Environment Protection Authority v Caltex Refining Co Pty Ltd* [1993] HCA 74; (1993) 178 CLR 477 at 504, 516, 535, 548-549; *Rio Tinto Zinc Corporation v Westinghouse Electric Corporation* [1978] AC 547 at 637-638.

76. So, for example, in *Microsoft Corporation v CX Computer Pty Ltd* [2002] FCA 3; (2002) 116 FCR 372, Microsoft served a notice to produce on a respondent, Natcorp, seeking production of documents which had been seized from Natcorp by the Australian Federal Police. Another respondent, Grassia, resisted production by Natcorp by reason of the privilege against self-incrimination. Lindgren J disagreed at [32]:

> Nor can Grassia complain about the giving of discovery or responding to the notice to produce by Natcorp on the ground that he might tend to be incriminated as a result, because this is not *self*-incrimination: cf *Caltex* at 490-493 per Mason CJ and Toohey J, 548-549 per McHugh J; *Garvin v Domus Publishing Ltd* [1989] Ch 335 at 348 (Walton J).

77. Similarly, in *Pascoe v Divisional Security Group Pty Ltd* [2007] NSWSC 211, a liquidator brought proceedings against a company and its director for insolvent trading. The director sought orders that the company not be required to give discovery or produce any documents as this could expose the director to a civil penalty. His Honour Justice White rejected this as inconsistent with the privilege against self-incrimination. At [43]:

> This argument merely restates that making the [company] liable to compulsory process could expose the [director] to a civil penalty. The [director] is not entitled to privilege against such exposure in that way. If, for example, there are documents in the possession of third parties, including the [company], which would have that tendency, the plaintiffs are entitled, by a proper subpoena or order for discovery, to obtain production of the document. In doing so, the privilege which the [director] enjoys against exposure to a civil penalty is not infringed, because he is not being required to expose himself to a penalty. Rather, the plaintiffs would simply be endeavouring to prove the case against him using compulsory processes of the Court against third parties.

78. Whilst section 128 concerns giving evidence at final hearing, section 87 of the *Civil Procedure Act* deals with the privilege against self-incrimination in interlocutory matters. Section 87(2) provides (emphasis added):

> This section applies in circumstances in which:
>
> (a) an application is made for, or the court makes, an order for production against *a person*, and
>
> (b) *the person* objects to the making of such an order, or applies for the revocation of such an order, on the ground that the evidence required by the order may tend to prove that *the person* has engaged in culpable conduct.

Consistently with the authorities already canvassed, section 87 requires an identity between the person from whom the documents are sought and the person claiming the privilege against self-incrimination.

79. In this case, the Hard Drive was produced in answer to the Subpoena on the Commissioner of Police and the defendant is not called upon to produce it or say anything about its provenance or contents. Consequently, the defendant does not have a privilege against self-incrimination in respect of the production of the Hard Drive by the Commissioner of Police.

80. How then can the Court proceed in the circumstances? Even if the defendant were minded to inspect the Hard Drive, a regime would need to be in place to ensure the safe custody of the Hard Drive and its contents. It is not readily apparent to me how this can be achieved in circumstances where the defendant is in gaol and, as I understand it from what he told me, will be for some time. Whilst the defendant could give instructions to a legal practitioner in respect of what records on the Hard Drive may be privileged, he does not have legal representation.

81. Rule 31.54(1) of the UCPR provides:

> In any proceedings, the court may obtain the assistance of any persons specially qualified to advise on any matter arising in the proceedings and may act on the advisor's opinion.

82. Two examples indicate where application of this rule may be appropriate. In *Wyong Shire Council v Neuman* [2008] NSWSC 1295, Macready AsJ appointed a person to assist him to effectively test the evidence of four competing expert witnesses on a technical matter. The case concerned whether a product known as Envir-o-Agg complied with detailed specifications in a contract to rehabilitate land fill and construct sports fields. The person so appointed sat with Macready AsJ on the bench during the hearing and cross-examined the experts after others had cross-examined them, and assisted Macready AsJ to collate the evidence but not to express any opinion on the subject matter of the hearing: at [16].

83. In *Ingot Capital Investments v Macquarie Equity Capital Markets (No 7)* [2008] NSWSC 199, McDougall J considered numerous question of costs arising from his Honour's determination of the substantive proceedings between the parties. Some of the parties sought orders that costs be paid in a gross sum. His Honour observed at [245]:

> I have to say that I feel less than fully qualified to decide questions of quantification of costs, as opposed to questions of principle that may arise before or in the course of quantification. One course might be to refer the question of quantification (should it arise) to a referee. That course will certainly lead to prolongation and further expense. Another course might be to appoint an expert to inquire into and report on any issues that are unresolved between the plaintiffs and any defendant on the question of gross sum costs. That again would lead to prolongation and further expense, but would give the Court independent assistance on what are likely to be very difficult questions. A third course might be to make an order under UCPR Rule 31.54 for the Court to obtain the assistance of an appropriate specially qualified person to advise on the questions in dispute. If that were done, I would envisage the appointment of a qualified costs consultant or costs assessor, who would consider all of the material relied upon by the parties, provide assistance to me in relation to the matters in dispute (which assistance of course would be disclosed to enable the parties to address it), and who would sit with me in effect as an assessor.

His Honour invited the parties to consider which of these courses were most suitable.

84. It seems to me that an order under rule 31.54(1) is appropriate in this case to identify documents in respect of which the defendant may be entitled to claim client legal privilege. From time to time, Sylvia Fernandez, a solicitor and partner of Thomson Geer, has been appointed by the Court to undertake the role of the independent solicitor in the execution of search warrants issued by the Court. In this capacity, Ms Fernandez has served orders, supervised searches and taken custody of items seized under the orders. Ms Fernandez has reviewed information stored on technology devices to determine material that may fall into particular categories or that may belong to a third party. Ms Fernandez informs me that she has no conflict, that is, neither she nor her firm have previously acted in matters concerning the plaintiffs or the defendant. I propose to appoint Ms Fernandez to inspect the Hard Drive and identify any documents over which the defendant may be entitled to claim client legal privilege.

85. The contents of the Hard Drive may not be used by the plaintiffs otherwise than for the purposes of the conduct of the proceedings, except by leave of the court, unless the document has been received into evidence in open court: *Hearne v Street* [2008] HCA 36; (2008) 235 CLR 125; *Harman v Secretary of State for the Home Department* [1983] 1 AC 280; *Blanch v Deputy Commissioner of Taxation* [2004] NSWCA 461 at [5], per Giles JA (with whom Hodgson and Ipp JJA agreed).

86. The question of costs was not canvassed with the parties. In the event that either party seeks a costs order in their favour, they may file and serve written submissions in support of the order they seek within 7 days, failing which costs are reserved.

ORDERS

87. I make the following orders:

. (1) Dismiss the defendant's application for a stay of the proceedings.

. (2) Pursuant to Section 61(3) of the *Civil Procedure Act 2005* (NSW), dismiss the defendant's motion filed on 12 January 2018.

. (3) Pursuant to Rule 31.54 of the *Uniform Civil Procedure Rules 2005* (NSW), appoint Sylvia Fernandez, solicitor, of Thomson Geer to provide assistance in these proceedings as follows:

. (a) uplift packet S-5 (the Hard Drive) from the Exhibits Office;

. (b) inspect the contents of the Hard Drive and identify any records to which the defendant may be entitled to claim client legal privilege under section 118 or 119 of the *Evidence Act 1995* (NSW);

. (c) copy the records identified in (b) onto an electronic storage device to be clearly labelled "Privileged Data: No access is to be granted without leave of the Court";

. (d) copy any remaining records on the Hard Drive to a second electronic storage device to be clearly labelled "Available Data: general access pursuant to orders made on 7 December 2018";

. (e) return the Hard Drive to the Exhibits Office; and

. (f) provide to the Court by 28 February 2019:

. (i) the two electronic storage devices described in (c) and (d); and

. (ii) a report as to how the task described in this Order was completed.

. (4) Grant the plaintiffs access to the electronic storage device labelled "Available Data: general access pursuant to orders made on 7 December 2018" on and from 1 March 2019.

. (5) Order the plaintiffs in the first instance to pay Ms Fernandez' costs of attending to the task referred to in Order (3).

. (6) Costs are reserved.

****

Amendments

10 December 2018 - Amend hearing date

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

Seven Network (Operations)
First Respondent
Seven West Media Limited
Second Respondent

EXHIBIT "C"

This is the exhibit marked "C" produced and shown to Shane Dowling at the time of affirming his affidavit this 14/5/19.

Affidavit of Shane Dowling sworn 2 March 2018 in the Capilano Honey v Shane Dowling matter. Has witness statement of Chris D'Aeth, Rebel Kenna and Detective Kristijan Juric and offending email

Before me

~~Solicitor~~/Justice of the Peace

(Ms) Deborah Anne Phillips
A Justice of the Peace in and for
the State of New South Wales
Reg. No. 223899

(C)

Form 40 (version 3)
UCPR 35.1

AFFIDAVIT OF SHANE FRANCIS DOWLING – 2 March 2018

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Defamation
Registry	Sydney
Case number	2016/299522

TITLE OF PROCEEDINGS

First plaintiff	**Capilano Honey**
Second plaintiff	Ben McKee
Defendant	**Shane Dowling**

FILING DETAILS

Filed for	Shane Dowling - Defendant
Filed in relation to	Affidavit supporting recusal application
Legal representative	Self-represented
Contact name and telephone	Shane Dowling – 0411 238 704
Contact email	shanedowling@hotmail.com

AFFIDAVIT

Name	Shane Dowling
Address	7 / 4 Park Parade Bondi Beach 2026
Occupation	Journalist
Date	2 March 2018

I affirm:

1 I publish the website Kangaroo Court of Australia.

2 Below is the witness statement of Chris D'Aeth – Principle Registrar for the Supreme Court of NSW in the matter R V Shane Dowling

3 The next witness statement is Detective Kristijan Juric

4 The next witness statement is Rebel Kenna

5 Then there are 2 articles from my website Kangaroo Court of Australia

NSW POLICE FORCE

P1/90A
Version 4.2 (07/06)

STATEMENT OF A WITNESS

In the matter of:	Threatening email
Place:	Day Street Police station
Date:	02/02/2017

Name:	Chris D'Aeth

STATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.
2. I am 41 years of age.
3. I am the executive director and principal Registrar for the Supreme Court of New South Wales. I have been performing this role within the Supreme Court in Sydney since October 2015.
4. My duties include primarily administration of court processes, liaison with Judicial officers and the department of Justice.
5. On the 6th September 2016 I was forwarded an email from Rebel KENNA – Prothonotary of the Supreme Court of New South Wakes. This email was titled 'FW: Paedophile Judge list to be sent to the AFP, Australian Crime Commission , NSW Crime Commission, and Royal Commission into Child Abuse for investigation.
6. I read this this email and I thought it was deeply offensive to the persons listed within the email. I note the email to was addressed to Judges and registrars of the Supreme Court.
7. The email contained information regarding the recipients being either known or suspected paedophiles. I noted that the email was sent from Shanedowling@hotmail.com. I recognised the name Shane Dowling from the courts, he has emailed the courts on previous occasions. I was also aware of a website he controls called Kangaroo Court of Australia. I am aware that

Witness:		Signature:	
Name:	David COLLARD	Name:	Chris D'AETH
Date:	02/02/2017	Date:	02/02/2017

Statement of	Chris D'Aeth
In the matter of	Email from Shane DOWLING

this webpage contains information about the courts and judicial registrars. It is a blog that he runs and controls.

8. On the 8th September 2016 I forwarded this email to Jillian CALDWELL – Special Counsel for the Crown Solicitor. Contained within the email to Jillian I wrote to her requesting the email be reviewed and advice on steps forward. I have since forwarded this email trail to Detective Senior Constable Kristian JURIC of Sydney City Local Area Command.

9. On the 20th September 2016, I received and email reply from Julian Caldwell. This email was sent with an attachment which was a 21 page document regarding advice regarding the email from Shane Dowling.

10. On the morning of the 21st September 2016, I discussed the advice given by Jillian with Chief Justice , The Honourable Tom Bathurst AC. After this discussion I sent Jillian another email requesting that the matter be sent to the commonwealth DPP for consideration.

11. Jillian replied to this email, After this I am aware that Jillian wrote to the Commonwealth DPP regarding this matter. The email trails regarding our conversation have been forwarded to Detective Kristian JURIC.

12. On the 26th September 2016, I received an email from Jillian, attached was a letter from the Commonwealth DPP indicating the matter had been referred to the AFP for further investigation, I have forwarded this email and attachment to Detective JURIC.

13. I PROUCE EMAILS SENT TO JILLIAN CALDWELL.

David Collard
2/2/17.

CHRIS D'AETH
2/2/17

NSW POLICE FORCE

P190B

STATEMENT OF POLICE

In the matter of:	Police -V- Shane DOWLING (Telecommunications Offence)
Place:	Sydney City Detectives Office
Date:	23 July 2017

Name:	Kristijan JURIC	Tel. No:	0292656470
Rank:	Detective Senior Constable		
Station/Unit:	Sydney City Detectives Office		

STATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.

2. I am 33 years of age.

3. In making this statement I have refreshed my memory by viewing NSW Police COPS case number C62864605.

4. On the 8th of September 2016, Detective Senior Sergeant Day handed me a report from the Crown Solicitors Office of NSW relating to an alleged telecommunication offence, attached to this report was a email sent from email address shanedowling@hotmail.com on the 6th of September 2016, with subject "Paedophile Judges listed to be sent to the AFP, Australian Crime Commission, NSW Crime Commission and Royal Commission into Child Sexual Abuse for investigation".

I NOW PRODUCE COPY OF THE EMAIL SENT FROM EMAIL ADDRESS SHANEDOWLING@HOTMAIL.COM ON THE 6TH OF SEPTEMBER 2016.

Witness: _____

Glenn BOREHAM
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Signature: _____

Kristijan JURIC
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

20-10-'17 09:22 FROM- SYDNEY CITY DETS 02-9265-6466 T-003 P0009/0058 F-730

From: SHANE DOWLING [mailto:shanedowling@outlook.com.au]
Sent: Wednesday, 7 September 2016 5:19 PM
To: Rebel Kenna; SCD - Common Law Registrar (Shared Mailbox)
Subject: FW: Paedophile Judge list to be sent to the AFP, Australian Crime Commission, NSW Crime Commission and Royal Commission into Child Sexual Abuse for investigation

From: Shane Dowling [mailto:shanedowling@hotmail.com]
Sent: Tuesday, 6 September 2016 11:35 PM
To: victoria_bradshaw@courts.nsw.gov.au; chambers.president@courts.nsw.gov.au; dorothy_von@courts.nsw.gov.au; maree_harland@courts.nsw.gov.au; chambers.macfarlanj@courts.nsw.gov.au; trish_beazley@courts.nsw.gov.au; norma_lynch@courts.nsw.gov.au; georgina_konjevski@courts.nsw.gov.au; lavinia_geary@courts.nsw.gov.au; chambers.jeeminsja@courts.nsw.gov.au; chambers.jeeminsja@courts.nsw.gov.au; lynn_nielsen@courts.nsw.gov.au; adam_awi@courts.nsw.gov.au; kim_pitt@courts.nsw.gov.au; cheryl.schofield@courts.nsw.gov.au; karen_adams@courts.nsw.gov.au; linda.head@courts.nsw.gov.au; renee_ingrey@courts.nsw.gov.au; carla_wilson@courts.nsw.gov.au; laurie_heraghty@courts.nsw.gov.au; chambers.johnsonj@courts.nsw.gov.au; margaret_gaertner@courts.nsw.gov.au; katherine_moroney@courts.nsw.gov.au; jarrod.gray@justice.nsw.gov.au; chambers.brereJonj@courts.nsw.gov.au; lisa_freeman@courts.nsw.gov.au; colleen_sutton@courts.nsw.gov.au; bernadette_heywood@courts.nsw.gov.au; kate_moore@courts.nsw.gov.au; chambers.mccallumj@courts.nsw.gov.au; sally_mccrossin@courts.nsw.gov.au; carol-_lloyd@courts.nsw.gov.au; chambers.slatteryj@courts.nsw.gov.au; anita_singh@courts.nsw.gov.au; chamber.schmidtj@courts.nsw.gov.au; sue_page@courts.nsw.gov.au; maria_kourtis@courts.nsw.gov.au; chambers.garlickj@courts.nsw.gov.au; katherine_young@courts.nsw.gov.au; margaret.smith2@courts.nsw.gov.au; anne_cochrane@courts.nsw.gov.au; barbara_rwicens@courts.nsw.gov.au; megan_grace@courts.nsw.gov.au; lauren_channells@courts.nsw.gov.au; chambers.beech-jonesj@courts.nsw.gov.au; poppy_xenakis@courts.nsw.gov.au; sara_bond@courts.nsw.gov.au; shari_williams@courts.nsw.gov.au
Subject: Paedophile Judge list to be sent to the AFP, Australian Crime Commission, NSW Crime Commission and Royal Commission into Child Sexual Abuse for investigation

Dear Chief Justice Bathurst, Justice Hoeben, Justice Price, Justice Simpson other judges

I am writing to you all regarding the list of paedophile judges that I intended on making a formal complaint about to the AFP, Australian Crime Commission, NSW Crime Commission and Royal Commission into Child Sexual Abuse. The list is below.

Known paedophiles

Chief Justice Tom Bathurst - NSW Supreme Court
Justice Clifton Hoeben – NSW Supreme Court
Justice Derek Price - NSW Supreme Court (He is also Chief Judge of the NSW District Court)
Justice Carolyn Simpson - NSW Supreme Court

Judge Richard Cogswell – NSW District Court
Judge Garry Neilson – NSW District Court

Magistrate Doug Dick – NSW Magistrates Court

Suspected paedophiles

Justice Ian Harrison - NSW Supreme Court
Justice Lucy McCallum - NSW Supreme Court
Justice Peter Hall - NSW Supreme Court
Justice Michael Adams - NSW Supreme Court
Acting Justice Henric Nicholas - NSW Supreme Court (now retired)
Acting Justice Robert Hulme - NSW Supreme Court
Justice David Davies - NSW Supreme Court
Justice Peter Garling - NSW Supreme Court
Justice Stephen Campbell - NSW Supreme Court
Registrar Rebel Kenna - NSW Supreme Court
Registrar Christopher Bradford - NSW Supreme Court

If you are on the list and would like a right of reply to deny that you are a paedophile and argue that you should not be on the list, please email me by close of business Wednesday the 7th of September 2016. I will also likely publish the list on my website, if you would like me to publish a reply please send me one by 5pm Wednesday the 7th of September.

If you are not on the list but have evidence of paedophile judges, please contact me on the details below.

As we all know corruption in the NSW Courts is widespread and systemic. In July 2015 Fairfax Media and the ABC's Four Corners program reported that NSW judges had been bribed $2.2 million by the Mafia which was confirmed by Justice David Davies in December 2015. Maybe you have evidence that the above judges have also benefited from the Mafia bribes or other bribes. If you have evidence of judicial bribery, please contact me ASAP.

Regards

Shane Dowling
Kangaroo Court of Australia
Ph 0411 238 704

Statement of Kristijan JURIC
In the matter of Police -V- Shane DOWLING (Telecommunications Offence)

5. Also attached to this report was a copy on article called "Paedophile priest gets 3 months jail for raping 3 boys by NSW Supreme Court's Justice Hoeben" published on the Kangaroo Court of Australia webpage.

I NOW PRODUCE COPY OF ARTICLE PAEDOPHILE PRIEST GETS 3 MONTHS JAIL FOR RAPING 3 BOYS BY NSW SUPREME COURT'S JUSTICE HOEBEN PUBLISHED ON THE KANGAROOCOURTOFAUSTRALIA.COM WEBSITE.

6. During my subsequent enquiries I contacted the Crown Solicitors Office of NSW to obtain contacts details of the persons named in the email and article. As a result of these enquires on the 8th of March 2017, Rebel KENNA attended Sydney City Police Station and supplied a statement.

7. On the 24th of April 2017, I created and submitted IASK_7795005 seeking to obtain the subscriber details for mobile phone number 0411238704, which was the number listed in the email sent and Kangaroo Court of Australia article as contact for Shane DOWLING.

8. On the 1st of May 2017, I created and submitted IASK_7795363 seeking to obtain the subscriber details for IP address 121.209.47.66, linked to email address shanedowling@hotmail.com.

9. On the 2nd of May 2017, result for IASK_7795005, returned a result with the subscriber for mobile phone number 04112238704 being Shane DOWLING.

I NOW PRODUCE COPY OF THE IASK_7795005 RESULT IDENTIFYING THE SUBSCRIBER DETAILS FOR MOBILE PHOEN NUMBER 04112238704.

10. On the 11th of May 2017, result for IASK_7795363, returned a result with the subscriber for IP address 121.209.47.66 being Shane DOWLING.

I NOW PRODUCE COPY OF THE IASK_7795363 RESULT IDENTIFYING THE SUBSCRIBER DETAILS FOR IP ADDRESS 121.209.47.66.

Witness:

Glenn BOREHAM
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Signature:

Kristijan JURIC
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Statement of Kristijan JURIC
In the matter of Police -V- Shane DOWLING (Telecommunications Offence)

11. About 8:00am on Wednesday the 21st of June 2017, I conducted a briefing at Bondi Beach Police Station in relation to executing search warrant, number 1256/17 at Shane DOWLING's residence at 5/68 Curlewis Street Bondi Beach. During this briefing I allocated the role of video operator to Detective Senior Constable LILLYMAN, the role of exhibits officer to Detective Senior COUNSELL, the role of searching officer to Plain Clothes Constable's QUICK and BURKE and the safety officer to Detective Senior Constable KENCH. Also present at this briefing was Inspector FORDY who was the independent officer and Sergeant PAXTON attached to Central Metropolitan Region Officer Support Group (CMROSG).

12. At the completion of the briefing I along with other police left Bondi Police Station and travelled to 68-70 Curlewis Street Bondi Beach. Upon arriving at the location, I approached apartment 5 and knocked on the door three times and called out police, with no response. I then requested tactical police attached to CMROSG approach the door and gain entry.

13. A short time later police attached to CMROSG gained entry into apartment 5 and secured the premises. Few minutes later Sergeant PAXTON exited the residence and advised me there was no person home. I then walked into the residence and called DOWLING's mobile 0411238704 but there was no answer, I left a message requesting DOWLING contact me.

14. Once police attached to CMROSG left the location, the search of the premises commenced. I remained inside the location until 9:25am at which time the search of the premises concluded. I was the last person to exit the premises and ensured the front door was locked and secured. I along with other police left the location.

15. About 12:40pm this day, I received a phone call from DOWLING. During this time I informed DOWLING of the search warrant and made an appointment with DOWLING to attend Day Street Police Station later this afternoon.

16. About 5:15pm this day, I walked up to DOWLING who was seated in the reception area of Day Street Police Station and arrested him. As I was explaining to DOWKING what was happening Detective Senior Constable HAMMERTON also approached me and DOWLING. Detective

Witness:
Glenn BOREHAM
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Signature:
Kristijan JURIC
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Statement of Kristijan JURIC
In the matter of Police -V- Shane DOWLING (Telecommunications Offence)

Senior Constable HAMMERTON and I escorted DOWLING out of the reception area, down James Lane and into the custody area of the police station.

17. Once DOWLING was entered into custody, Detective Senior Constable HAMMERTON and I escorted DOWLING from the custody area and into an interview room. Detective Senior Constable HAMMERTON and I conducted an electronically recorded interview with DOWLING.

18. During the interview all questions asked by Detective Senior Constable HAMMERTON and me along with any answers and comments made by DOWLING were electronically recorded, recording number R0485318.

I NOW PRODUCE TRANSCRIPTION OF ELECTRONICALLY RECORDED INTERVIEW, RECORDING NUMBER R0485318.

19. At the completion of the interview Detective Senior Constable HAMMERTON and I escorted DOWLING from the interview room, back to the custody area. I then left the custody area and attended to the charging process.

20. On Tuesday the 4th of July 2017, I inspected all of the exhibits seized at DOWLING's residence during a search warrant. During this time I viewed exhibit number X0002485804, being 9 letters from Telstra addressed to DOWLING with account number 2000 11257 3397.

I NOW PRODUCE COPY OF 9 TELSTRA LETTERS ADDRESSED TO DOWLING RELATING TO TELSTRA ACCOUNT NUMBER 2000 11257 3397.

21. At 1:15pm this day I opened and examined exhibit X0002485802, being a HP laptop computer. I reviewed a number of documents and files contained on the laptop. During this time I located in folder "C:/Users/shane_000\Documents\Kangaroo Court\Posts\NSW Supreme Court" a document named "Chief Justice Bathurst - Paedophile judges – 7 September 2016.pdf". I copied this file off the HP laptop onto a 16GG, red and black colour imation brand USB.

Witness: _____
Glenn BOREHAM
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Signature: _____
Kristijan JURIC
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Statement of Kristijan JURIC
In the matter of Police -V- Shane DOWLING (Telecommunications Offence)

I NOW PRODUCE A COPY OF DOCUMENT NAMED CHIEF JUSTICE BATHURST – PAEDOPHILE JUDGES – 7 SEPTEMBER 2016.PDF OBTAINED FROM EXHIBIT X0002485802 BEING THE HP LAPTOP COMPUTER.

22. At 2:00pm this day I completed reviewing exhibit X00024858025, I placed the HP laptop back into the exhibit bag and sealed it. I then attended to other duties.

Witness: _____
Glenn BOREHAM
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

Signature: _____
Kristijan JURIC
Detective Senior Constable
Sydney City Detectives Office
23 July 2017

47

12

POLICE FORM COPY

Version 4.5 (05/2015)

STATEMENT OF A WITNESS

er of: Police -V- Shane DOWLING
Sydney City Detectives Office
08 March 2017

e: Rebel KENNA

TATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give in court as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.
2. I am 35 years of age.
3. I am working as a Director and Prothonotary for The Supreme Court of NSW. I have been in this role for the past 18 months. As part of my duties I manage the registrars, bring contempt proceedings, I also bring proceedings to have solicitors removed from the roll and I am also a secretary of the rules committee as well sit it court and oversee court matters before me.
4. About 5:20pm on the 7th of September 2016, I was sitting at my desk in my office and reviewing my emails when I noticed an email from Shane DOWLING in my work email inbox. I know DOWLING from two previous court matters first being in 2014 and second in 2015, over which I presided in court and DOWLING was one of the parties, During these matters DOWLING was very abusive toward me and one occasion's he called me corrupt, sleazy and slimy and during one incident I even had to request the Sheriffs remove DOWLING from my court room due to his abusive behaviour.
5. Around 5:20pm, I opened the email and read through it, the email was making allegation that certain Judges, Magistrates and Registrars are paedophiles and it included names of individual Judges, Magistrates and Registrars, including mine. The email also threatened to have all of

Witness: _____
Kristjan JURIC
Detective Senior Constable
Sydney City Detectives Office
08 March 2017

Signature: _____
Rebel KENNA
08 March 2017

Statement of Rebel KEnNA
In the matter of Police -V- Shane DOWLING

this information published on the internet by the end of business on this day and if I wished to dispute these allegations to reply to him by email by 5:00pm on this day, however I received this email at 6:19pm.

6. Upon seeing this email and seeing the allegations along with my name there calling me a paedophile I had a mixture of emotions, I felt physically ill, like I wanted to throw up. It was also very distressing and hurtful to be called a paedophile, I was on the verge of crying. I feel DOWLING is targeting me and this email is just a continuation of DOWLING's harassing behaviour toward me due to me in the past presiding in court matters which he was involved.

7. Due to DOWLING's previous behaviour and this email, I fear that his actions may continue and escalate. I have already amended how I travel to and from work in case DOWLING is watching me. I also look to see what court matters are scheduled and if I see his name I will avoid going outside or near the court that he may be in. I have even taken my name of the electoral roll so that my residential address is more difficult to find.

8. I have not received any further emails or correspondence from DOWLING since this email, however I am aware that he has been sending emails to Jill CALDWELL seeking to find information about me.

Witness: _____
Kristijan JURIC
Detective Senior Constable
Sydney City Detectives Office
08 March 2017

Signature: _____
Rebel KENNA
08 March 2017

6 Below is a copy of the email Chris D'Aeth refers to in his witness statement and the article that it appears on my website which was published on the 8th of September 2016. The email and article are part of the police brief of evidence before the court. There is no suppression order on any of the evidence before the court.

PAEDOPHILE PRIEST GETS 3 MONTHS JAIL FOR RAPING 3 BOYS BY NSW SUPREME COURT'S JUSTICE HOEBEN

I have seen some scandalous and corrupt judgements but I can't remember any worse than paedophile catholic priest Father Robert Flaherty being sentenced in August 2016 to a non-parole period of 3 months jail for abusing and raping 3 boys. It is plainly obvious that the judges involved need to be investigated themselves.

I have collated a list of paedophile judges and suspected paedophile judges below and emailed the list to all the NSW Supreme Court judges giving them an opportunity to respond before I published their names. I am also in the process of sending a formal complaint to the relevant authorities regarding paedophiles in the judiciary and not all my evidence is in this article but I will focus on making a fair and reasonable case against the 4 judges in the Father Flaherty matter.

The rest of the evidence I will publish at the relevant time although I have published plenty before such as an article in 2014 titled: "*Premier Mike Baird & Chief Justice Bathurst fail to act on paedophile supporter Judge Garry Neilson*".

Paedophile Magistrate Peter Liddy – Jailed for 25 years in 2001

Most people find it hard to believe that there are paedophile judges but the first Australian judicial officer jailed was South Australian magistrate Peter Liddy who is still in jail today. It was reported in 2001:

"*Former South Australian Magistrate, Peter Liddy, continues to make Australian legal history. In June he became the first Australian judicial officer convicted of child sex crimes. And today he was given a 25 year sentence – believed to be the longest sentence handed down to any paedophile.*"(Click here to read more)

Paedophile Magistrate Peter Liddy

Father Robert Flaherty

In February 2016 Father Flaherty was jailed for 2 years and 3 weeks with a non-parole period of 6 months by the NSW District Court's Judge Richard Cogswell, SC for sexually abusing 3 boys.(Click here to read more)

The church had allowed Father Flaherty to move from parish to parish even though they knew he had abused boys.

As you would expect the prosecution appealed because the sentence was a joke. The appeal was heard in the NSW Court of Criminal Appeal by Justice Hoeben, Justice Price and Justice Simpson with Hoeben being the senior judge. What did they do? They decreased the sentence to 2 years with a non-parole period of 3 months. (Click here to read the summary of the judgement)

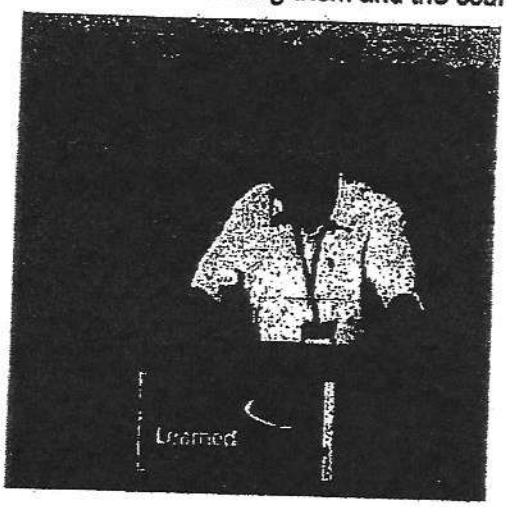
Father Flaherty's lawyers did the big sob story that he suffered numerous health issues and only had 6 to 12 months to live. Half the criminals before the courts argue similar things and they don't get reduced sentences.

To put it in perspective how scandalous the Father Flaherty matter is it is worth comparing it to another recent appeal involving Bega paedophile Maurice Van Ryn. Mr Van Ryn was sentenced to 7 years jail by Judge Clive Jeffreys for abusing 9 children. The court of appeal increased it to 13 years 6 months and said Judge Jeffreys judgment was: *so manifestly inadequate it amounted to "an affront to the administration of criminal justice"*. (Click here to read the full judgment) Just for the record the 3 appeal judges in the Van Ryn matter were Justice Leeming, Johnson and Hulme.

Compare the 13 1/2 years jail for Van Ryn to the 2 years jail with a non-parole period of 3 months for Father Flaherty and it is not too hard to work out something is badly wrong. It seems to be

When there is little media coverage the judges take advantage of it and do what they want as Van Ryn was very high-profile yet Father Flaherty did not get much media coverage for some reason. Judges supporting paedophiles with grossly inadequate sentencing has been a long-term problem and can only mean one thing and that is there are numerous judges who are themselves paedophiles. Former federal Senator Bill Heffernan said last year that he was in possession of a list of high-profile paedophiles which included judges that he received from a federal law enforcement agency and when judges hand down lenient sentences than those judges should come under suspicion until there is a public enquiry.

What makes the Flaherty matter even more scandalous is the fact that it has happened while there is a Royal Commission into Child Sexual Abuse in progress costing hundreds of millions of dollars and NSW Supreme Court judges have said we do not care and we are untouchable. But they are not untouchable from this website naming them and the court of public opinion.



Justice Cliff Hoeben, Chief Judge at Common Law, NSW Supreme Court

Below is the email I sent to Chief Justice Tom Bathurst and all of the other NSW Supreme Court judges.

From: Shane Dowling [mailto:shanedowling@hotmail.com]
Sent: Tuesday, 6 September 2016 11:35 PM
To: victoria_bradshaw@courts.nsw.gov.au; chambers.president@courts.nsw.gov.au; dorothy_yon@courts.nsw.gov.au; maree_harland@courts.nsw.gov.au; chambers.macfarlanja@courts.nsw.gov.au; trish_beazley@courts.nsw.gov.au; morna_lynch@courts.nsw.gov.au; giorgina_kotevski@courts.nsw.gov.au; jasmine_geary@courts.nsw.gov.au; chambers.gleesonja@courts.nsw.gov.au; chambers.leemingja@courts.nsw.gov.au; lynn_nielsen@courts.nsw.gov.au; adam_zwi@courts.nsw.gov.au; kim_pitt@courts.nsw.gov.au; cheryl.scholfield@courts.nsw.gov.au; karen_adams@courts.nsw.gov.au; linda.head@courts.nsw.gov.au; renee_ingrey@courts.nsw.gov.au;

carla_wilson@courts.nsw.gov.au; maria_heraghty@courts.nsw.gov.au; chambers.johnsonj@courts.nsw.gov.au; margaret_gaertner@courts.nsw.gov.au; katherine_moroney@courts.nsw.gov.au; jacqui.gray@justice.nsw.gov.au; chambers.breretonj@courts.nsw.gov.au; lisa_freeman@courts.nsw.gov.au; colleen_sutton@courts.nsw.gov.au; bernadette_heywood@courts.nsw.gov.au; kate_moore@courts.nsw.gov.au; chambers.mccallumj@courts.nsw.gov.au; sally_mccrossin@courts.nsw.gov.au; carol_lloyd@courts.nsw.gov.au; chambers.slatteryj@courts.nsw.gov.au; anita_singh@courts.nsw.gov.au; chambers.schmidtj@courts.nsw.gov.au; sue_page@courts.nsw.gov.au; maria_kourtis@courts.nsw.gov.au; chambers.garlingj@courts.nsw.gov.au; catherine_young@courts.nsw.gov.au; margaret.smith2@courts.nsw.gov.au; anne_cochrane@courts.nsw.gov.au; barbara_ruicens@courts.nsw.gov.au; megan_grace@courts.nsw.gov.au; lauren_channells@courts.nsw.gov.au; chambers.beech-jonesJ@courts.nsw.gov.au; poppy_xenakis@courts.nsw.gov.au; sara_bond@courts.nsw.gov.au; shari_williams@courts.nsw.gov.au

Subject: Paedophile Judge list to be sent to the AFP, Australian Crime Commission, NSW Crime Commission and Royal Commission into Child Sexual Abuse for investigation

Dear Chief Justice Bathurst, Justice Hoeben, Justice Price, Justice Simpson other judges

I am writing to you all regarding the list of paedophile judges that I intended on making a formal complaint about to the AFP, Australian Crime Commission, NSW Crime Commission and Royal Commission into Child Sexual Abuse. The list is below.

Known paedophiles

Chief Justice Tom Bathurst – NSW Supreme Court

Justice Clifton Hoeben – NSW Supreme Court

Justice Derek Price – NSW Supreme Court (He is also Chief Judge of the NSW District Court)

Justice Carolyn Simpson – NSW Supreme Court

Judge Richard Cogswell – NSW District Court

Judge Garry Neilson – NSW District Court

Magistrate Doug Dick – NSW Magistrates Court

Suspected paedophiles

Justice Ian Harrison – NSW Supreme Court

Justice Lucy McCallum – NSW Supreme Court

Justice Peter Hall – NSW Supreme Court

Justice Michael Adams – NSW Supreme Court

Acting Justice Henric Nicholas – NSW Supreme Court (now retired)

Acting Justice Robert Hulme – NSW Supreme Court

Justice David Davies – NSW Supreme Court

Justice Peter Garling – NSW Supreme Court
Justice Stephen Campbell – NSW Supreme Court
Registrar Rebel Kenna – NSW Supreme Court
Registrar Christopher Bradford – NSW Supreme Court

If you are on the list and would like a right of reply to deny that you are a paedophile and argue that you should not be on the list, please email me by close of business Wednesday the 7th of September 2016. I will also likely publish the list on my website, if you would like me to publish a reply please send me one by 5pm Wednesday the 7th of September.

If you are not on the list but have evidence of paedophile judges, please contact me on the details below.

As we all know corruption in the NSW Courts is widespread and systemic. In July 2015 Fairfax Media and the ABC's Four Corners program reported that NSW judges had been bribed $2.2 million by the Mafia which was confirmed by Justice David Davies in December 2015. Maybe you have evidence that the above judges have also benefited from the Mafia bribes or other bribes. If you have evidence of judicial bribery, please contact me ASAP.

Regards
Shane Dowling

Email end

No one has responded just the same as they all shut their mouths last year when Fairfax Media and the ABC's Four Corners exposed NSW Judges for taking bribes of $2.2 million from the Mafia.(Click here to read more)

Summary

The Father Flaherty matter has happened in an environment where the NSW Attorney-General has claimed there will be harsher laws for child abusers:

"The New South Wales Government is planning to introduce life sentences for child sex offenders and paedophiles."

"NSW Attorney General Gabrielle Upton will introduce new legislation this week increasing the maximum sentence for sexual intercourse with a child under 10 from 25 years to life imprisonment." (Click here to read more)

And has happened where NSW Attorney General Gabrielle Upton also had *"two specialist judges appointed to the District Court to hear child sexual assault cases across the state."* (Click here to read more)

Doesn't seem like the NSW Attorney General Gabrielle Upton is achieving a much.
In the next week or so I will make a formal complaint as I have flagged above but before then please email me or write in the comment section below any evidence that you might have regarding child abusers in the judiciary which I might add to the complaint.

Please use the Twitter, Facebook and email etc. buttons below and help promote this post.

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If you would like to follow this website, you can by email notification at the top right of this page and about twice a week you will be notified when there is a new article.
Thank you for your support.
Share this:

Below is an article published on the 10/2/2018

CAPILANO HONEY CEO BEN MCKEE CAUGHT ON VIDEO TALKING ABOUT SEX WITH A STAFF MEMBER TO OPPOSING PARTY

Below is the video that Capilano Honey, Ben McKee and their lawyers are desperately trying to have destroyed to help them win a defamation case against me (Shane Dowling). In the video Ben McKee talks about sex with a staff member to Simon Mulvany, who is an opposing party to Capilano and Ben McKee in a separate defamation case, during settlement negotiations.

The bottom line is that Capilano Honey and their CEO Ben McKee sued Simon Mulvany who was regularly writing about their honey being poisonous. I wrote about the lawsuit and the transcript of what Ben McKee said on the "sex video" and they sued me. Then they tried to have Simon Mulvany destroy the video so I couldn't prove what Ben McKee said on the video and they could win their defamation case against me. But they left a paper trail of what they have been doing and now Capilano Honey, Ben McKee and their lawyers are in a lot of trouble.

What Ben McKee said in the video is bad but what is a lot worse is the attempt to have the video destroyed to help win the court case as it is an attempt to destroy evidence and pervert the course of justice and I will be making a complaint to the police in the near future.

In the below video Ben McKee was trying to negotiate a settlement with Simon Mulvany and he knew he was being recorded for a documentary, so it was a very off thing to say. There is also another video below of Capilano Honey's and Ben McKee's barrister Sandy Dawson threatening Simon Mulvany if he does not delete evidence on his Facebook page and also calling me a dog even though I had nothing to do with their matter.

Ben McKee is one very weird person and blatantly not suitable as a CEO of any company. I understand Capilano have admitted spending $millions of shareholders money trying to close down Simon Mulvany's and my reporting of their dodgy business practices.
(Click here for a longer version of the video)

Capilano Honey and Ben McKee v Simon Mulvany
The case it still before the court and Capilano Honey and Ben McKee having been dragging the case out as long as they can. It is a typical SLAPP lawsuit which Capilano Honey shareholder Kerry Stokes is famous for.

Capilano Honey and Ben McKee v Shane Dowling
I wrote an article on the 17th of September 2016 titled "*Australia's Capilano Honey admit selling toxic and poisonous honey to consumers*" about Capilano suing Simon Mulvany and said:
Capilano Honey are putting the lives of Australians at risk by knowingly selling honey that is full of antibiotics, toxins, irradiated pollen from China and alkaloids. Capilano are also deliberately concealing from consumers the fact that a large percentage of their honey is imported from China, Mexico, Argentina (where they have a factory), Hungary and Brazil.

Capilano, who promote themselves as 100% Australian, are so worried about being exposed they instituted frivolous and vexatious defamation proceedings in February 2016 against whistleblower and consumer activist Simon Mulvany seeking a gag order to try to silence him. Mr Mulvany runs

a Facebook page "Save The Bees Australia" and a website called "Bee the Cure" focused on health and safety issues with Honey and the Bee industry.

The court case has backfired badly as Australian and Chinese media have reported on the case and how Capilano are refusing to file their Statement of Claim and will not communicate with Mr Mulvany's lawyers which means the case will be thrown out because Capilano are failing to prosecute their case. This is in effect an admission by Capilano Honey that what Simon Mulvany has been saying is true and correct. (Click here to read more)

I wrote a follow-up article on 25th of September titled "*Channel Seven, Capilano Honey and Addisons Lawyers involved in judicial favors scam*" (Click here to read)

Why would the Kerry Stokes owned and controlled Channel Seven and Capilano Honey use Addisons Lawyers partner Martin O'Conner, who does not specialise in defamation law, to sue 2 bloggers for defamation? Because they are up to their necks in a judicial favours scam with the common link between the three being Kerry Stokes, Ryan Stokes and Addison's partner Justine Munsie.

Then on October the 6th 2016 I wrote an article titled "*Sex tape featuring Capilano Honey CEO Ben McKee covered up by Directors*" and I wrote:

There is a sex tape featuring Capilano Honey CEO Ben McKee talking about having anal sex with a female staff member at Capilano Honey. As you can see by the first email below I put questions about the matter to the directors of Capilano Honey and they have so far refused to respond even though it is my understanding at least 2 of the directors have seen the tape. The second email below is from Ben McKee to Simon Mulvany trying to cover-up the sex tape.

What makes it very bizarre is the forum that Ben McKee chose to make the comments. In February 2016 Ben McKee and Capilano Honey instituted frivolous and vexatious defamation proceedings against bee industry whistleblower and consumer activist Simon Mulvany.

In May 2016 Ben McKee was at a meeting with Simon Mulvany to try to conciliate an out of court resolution in relation to the defamation case. Also at the meeting was a documentary filmmaker Alex who is filming a documentary with Mr Mulvany on the bee industry. For some unexplained reason Ben McKee thought that was an appropriate forum to talk about having anal sex with one of the Capilano female employees. (Click here to read)

On the 9th of October I was sued for injurious falsehood and defamation by Capilano Honey and their CEO Ben McKee. I wrote an article titled "*Capilano take out super-injunction to*

silence a 2nd journalist re: poisonous and toxic honey". (Click here to read more) and I wrote a follow-up article on the 13th of October 2016 titled "*Capilano Honey want journalist jailed for exposing their toxic and poisonous honey*". (Click here to read more)

They only sued for the article on the 17th of September "*Australia's Capilano Honey admit selling toxic and poisonous honey to consumers*" and the 6th of October "*Sex tape featuring Capilano Honey CEO Ben McKee covered up by Directors*". They never sued for the article I wrote on 25th of September titled "*Channel Seven, Capilano Honey and Addisons Lawyers involved in judicial favors scam*" which I take as admission by them that it is true.

Trying to have Simon Mulvany destroy the video

On June the 3rd 2017 I wrote an article titled "*Capilano Honey tried to have recorded evidence of their misogynistic CEO destroyed before court case*" and said:

Capilano Honey and their CEO Ben McKee have been caught out trying to silence whistleblower Simon Mulvany and at the same time trying to destroy a recording which is evidence for another court case. Capilano Honey and Mr McKee attempted this by trying to pressure Simon Mulvany into signing a dodgy Deed of Release which is below.

This led to Mr Mulvany sacking his barrister and representing himself in court.
Capilano Honey is 20% owned by Kerry Stokes who seems to control the company even with such a small shareholding. Mr Stokes has a habit of employing CEO's who get caught in sex scandals and who also like to destroy evidence. In the current sex scandal involving Seven CEO Tim Worner and former employee Amber Harrison Seven demanded Amber Harrison destroy a mobile phone and delete data from a laptop.

Capilano Honey and their CEO Ben McKee started suing Simon Mulvany in February 2016 because Mr Mulvany wrote a number of posts on his Save the Bees Facebook page about Capilano selling poison honey etc. The legal team used to sue Simon Mulvany are Addisons Lawyers who are Kerry Stokes and Channel Sevens own lawyers.

Below is the Deed of Release that Capilano Honey and Ben McKee tried to pressure Mr Mulvany into signing. Mr Mulvany's own barrister Kieran Smark, who is also regularly on Stokes' and Seven's payroll, also tried to pressure Mr Mulvany into signing the Deed of Release. This is a major reason why Simon Mulvany sacked his barrister Mr Smark.

The biggest issue with the Deed of Release is section 6 where they wanted Simon Mulvany to destroy the Ben McKee sex tape which Shane Dowling wrote about in October 2016. Their tape

would be key evidence in the defamation case Capilano Honey and Ben McKee has instituted against Shane Dowling.

So the bottom line is Capilano Honey, Ben McKee and the lawyers were trying to bully Simon Mulvany into perverting the course of justice by destroying evidence.

The most important sections are 6.3 and 6.4 which are below and then the full Deed of Release is below that. They even call section 6 "Dowling material and destruction of recording" which makes it very obvious they wanted the recording destroyed to help their chances of winning in the Shane Dowling defamation case.

6.3 Mulvany will destroy the recording made on or about 26 May 2016 of any conversation between him and Ben McKee (Recording) and any copy of the Recording in his possession.
6.4 Further, Mulvany undertakes that should it:
(a) come to his attention; or
(b) be brought to his attention by Capilano,
that a third party has a copy of the Recording, he will use all reasonable endeavours to cause such recording to be destroyed forthwith, to the extent it is within his power to do so. (Click here to read more and see the full Deed of Release) (Click here of a PDF version of the Deed of Release)

I emailed a number of questions to the Directors of Capilano Honey and they had lawyer Richard Keegan respond who ducked and weaved and ultimately wouldn't answer the simple question of why he added the "Dowling Clause" to the Deed of Release to have the tape destroyed. (Click here to read the email chain)

Capilano wanted Simon Mulvany to sign the Deed of Release on the 24/5/17. (Click here to read more)

The below video is barrister Sandy Dawson SC threatening Simon Mulvany with litigation going on and on & that they will "get him" if he does not settle the defamation case with Capilano Honey & CEO Ben McKee. Sandy Dawson was also desperate for Simon Mulvany to delete a copy of the dodgy Deed of Release that he had uploaded to the internet the night before the phone call. At the beginning of the call you will hear Sandy Dawson call journalist Shane Dowling a dog. Capilano and Ben McKee are also using barrister Sandy Dawson to sue Shane Dowling who publishes this website.

(Click here to watch the video)

Sandy Dawson obviously has personal issues with me and should not be involved in the court cases against me on behalf of Kerry Stokes, Seven or Capilano Honey and after listening to the phone call with the Simon Mulvany he should quite representing Capilano Honey and Ben McKee totally or they should sack him.

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Thank you for your support.

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SHANIE DOWLING

AFFIRMED at Bondi Junction

Signature of deponent S Dowling

Name of witness

Address of witness

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

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. ~~[OR, delete whichever option is inapplicable]~~

~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.*~~

2 ~~#I have known the deponent for at least 12 months.~~ [OR, delete whichever option is inapplicable]

#I have confirmed the deponent's identity using the following identification document:

NSW Driver licence

Identification document relied on (may be original or certified copy)†

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

ADELE MAY McWHINNEY
Justice of the Peace Registration 124336
in and for the State of New South Wales, Australia
128 Edgecliff Rd
Woollahra NSW 2025

[* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[† "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or JP Ruling 003 - Confirming identity for NSW statutory declarations and affidavits, footnote 3.]

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

Seven Network (Operations)
First Respondent
Seven West Media Limited
Second Respondent

EXHIBIT "D"

This is the exhibit marked "D" produced and shown to Shane Dowling at the time of affirming his affidavit this 14/5/19.

Statement of Claim

Before me

.....
~~Solicitor~~/Justice of the Peace

.....
(Ms) Deborah Anne Phillips
A Justice of the Peace in and for
the State of New South Wales
Reg. No. 223899

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D

Form 3A (version 7)
UCPR 6.2

STATEMENT OF CLAIM

COURT DETAILS	
Court	Supreme Court of New South Wales
Division	Equity
List	General
Registry	Sydney
Case number	2017/116771
TITLE OF PROCEEDINGS	
First plaintiff	**Seven Network (Operations) Limited ACN 052 845 262**
Second plaintiff	**Seven West Media Limited ACN 053 480 845**
Defendant	**Shane Dowling**
FILING DETAILS	
Filed for	**Seven Network (Operations) Limited and Seven West Media Limited,** plaintiffs
Legal representative	Martin O'Connor, Addisons
Legal representative reference	SEV001/4082
Contact name and telephone	Richard Keegan 02 8915 1000
Contact email	richard.keegan@addisonslawyers.com.au
TYPE OF CLAIM	
Other (Equity General List)	

FILED
11 JUL 2017
SUPREME COURT OF NEW SOUTH WALES
MS

This matter has been listed before the Court
on 25/8/17
at .....
Clerk of the Court

RELIEF CLAIMED

1 An order restraining the defendant, by himself, or his servants or agents, from using or disclosing the Confidential Information.

2 Costs.

3 Interest.

4 Interest on costs.

PLEADINGS AND PARTICULARS

1 The plaintiffs are corporations entitled to sue in their corporate name and style.

2 The defendant publishes stories and other information on a number of online platforms.

Particulars

a. www.kangaroocourt.com.au

b. Twitter: https://twitter.com/Kangaroo_Court

c. Facebook account: https://www.facebook.com/kangaroocourtofaustralia/

3 At all material times, the defendant owned and operated the website published at the URL http://sevenversusamber.com (**the SVA Website**).

4 In July 2014, a dispute arose between the first plaintiff and Ms Amber Harrison.

5 Following a mediation of the dispute, the first plaintiff and Ms Harrison entered into a confidential deed of release dated 14 November 2014 (**the Deed**).

6 As part of the Deed, Ms Harrison agreed to keep confidential all Confidential Information as defined in the Deed, and not to copy or reproduce any Confidential Information ("**Confidential Information**").

Particulars

a. Clause 2.1(i) of the Deed

7 On or about 28 January 2017, the defendant via his website www.kangaroocourtofaustralia.com.au, published a copy of the Deed.

8 At least from about the time referred to in paragraph 7 above, the defendant was aware of the terms of the Deed.

9 On 13 February 2017, his Honour Justice McDougall made interim interlocutory orders preventing Ms Harrison from disclosing information and/ or documents retained by her in breach of her obligations under the Deed and in breach of her obligations of confidentially generally (**13 February Orders**).

10 On 21 February 2017, his Honour Justice McDougall extended the 13 February 2017 Orders, except for order 2(f) (**21 February Orders**).

11 The defendant received copies of the 13 February Orders and the 21 February Orders on 18 April 2017. The defendant published copies of both sets of orders on the defendant's Twitter account @Kangaroo_Court.

12 On 18 April 2017, the defendant published material including the 14 April Email, the 17 April Tweet and the SVA Article (all as defined in the affidavit of Richard Michael Keegan sworn 19 April 2017 in this proceeding).

Particulars

a. The 13 February Orders, 21 February Orders, 14 April Email and 17 April Tweet were published on the defendant's Twitter account;

b. The 14 April Email and the SVA Article were published on the SVA Website.

13 By publishing the 14 April Email, the 17 April Tweet and the SVA Article, the defendant disclosed some of the Confidential Information.

Particulars of Confidential Information disclosed by defendant

a. The content of the text messages referred to in the 17 April Tweet and the SVA Article, as defined in the affidavit of Richard Michael Keegan sworn on 19 April 2017 in this proceeding.

14 At all material times, in the premises, the defendant has owed the plaintiffs an equitable obligation of confidence in relation to the Confidential Information referred to in paragraph 13.

15 In making such use of the Confidential Information, the defendant breached the obligation of confidence he owed to the plaintiffs.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 to the *Legal Profession Uniform Law Application Act 2014* that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

I have advised the plaintiffs that court fees may be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity Solicitor on record

Date of signature 31 July 2017

NOTICE TO DEFENDANT

If you do not file a defence within 28 days of being served with this statement of claim:

- **You will be in default in these proceedings.**
- **The court may enter judgment against you without any further notice to you.**

The judgment may be for the relief claimed in the statement of claim and for the plaintiffs' costs of bringing these proceedings. The court may provide third parties with details of any default judgment entered against you.

HOW TO RESPOND

Please read this statement of claim very carefully. If you have any trouble understanding it or require assistance on how to respond to the claim you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the claim from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

You can respond in one of the following ways:

1 **If you intend to dispute the claim or part of the claim,** by filing a defence and/or making a cross-claim.

2 **If money is claimed, and you believe you owe the money claimed,** by:

- Paying the plaintiff all of the money and interest claimed. If you file a notice of payment under UCPR 6.17 further proceedings against you will be stayed unless the court otherwise orders.
- Filing an acknowledgement of the claim.
- Applying to the court for further time to pay the claim.

3 **If money is claimed, and you believe you owe part of the money claimed,** by:

- Paying the plaintiff that part of the money that is claimed.
- Filing a defence in relation to the part that you do not believe is owed.

Court forms are available on the UCPR website at www.ucprforms.justice.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	Law Courts Building, 184 Phillip Street, Sydney NSW 2000
Postal address	Law Courts Building, 184 Phillip Street, Sydney NSW 2000
Telephone	1300 679 272

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

Seven Network (Operations)
First Respondent
Seven West Media Limited
Second Respondent

EXHIBIT "E"

This is the exhibit marked [*Exhibit No*] produced and shown to Shane Dowling at the time of affirming his affidavit this 14/5/19.

Latest court orders made

Before me

~~Solicitor~~/Justice of the Peace

(Ms) Deborah Anne Phillips
A Justice of the Peace in and for
the State of New South Wales
Reg. No. 223899

(E)

Extracted below are the latest orders as recorded on the online registry.

2017/00116771-001 Summons: Seven Network (Operations) Limited v Shane Dowling

Order Listing management - adjournments / Adjourned/ Relisted (general) no status change made on 03 Apr 19 for proceeding 2017/00116771-001, 2017/00116771-004

This matter is listed for Directions (Equity Registrar) on 22 May 2019 9:30 AM before the Supreme Court - Civil at Supreme Court Sydney.
Estimated duration: 5 Minutes

THE COURT ORDERS (Registrar Walton):
1. Orders 1-2 in document ORDER filed in Court.
2. Stand Over to 22 May 2019.

ORDER:
1. The plaintiffs to serve any further non-expert evidence in support of the notice of motion filed 21 July 2017 by 3 May 2019.
2. The plaintiffs to serve any expert evidence in support of the notice of motion filed 21 July 2017 by 17 May 2019.