IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

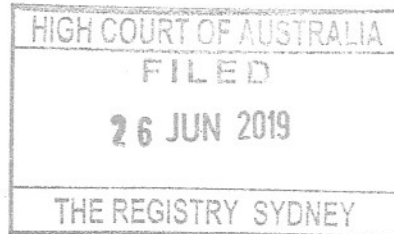
No. S197 of 2019

BETWEEN:

Shane Dowling
Applicant

and

10



Jane Doe 1
First Respondent
Jane Doe 2
Second Respondent
Jane Doe 3
Third Respondent
Jane Doe 4
Fourth Respondent

20

AFFIDAVIT

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

1. **Proceedings details**

This is another one of Kerry Stokes' / Seven's / Capilano Honey's SLAPP lawsuits
30 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..

Attached to this affidavit is an Ammended Statement of Claim which is Annexure "A", an affidavit by me sworn on the 2nd of March 2018 which is Annexure "B", a judgment by Justice Walton which was handed down on the 17th of August 2018. which is Annexure "C"

The latest orders were issued by Justice Clifton Hoeben on the 17th of May 2019
40 and are that the matter be listed on the 26th and 27th of August 2019 for final hearing and my motion to have the matter dismissed for want of prosecution.

Shane Dowling
1/78b Ocean St Bondi NSW 2026
Telephone: 0411238704
shanedowling@outlook.com.au
Ref: Shane Dowling

Chief Justice Tom Bathurst made it very clear in September 2016, directing court staff to make a frivolous and vexatious complaint to the police, that he has a 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
10 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 previously filed an appeal but the registry is refusing me fee waivers and I have appealed the refusal for fee waiver, but the registry is ignoring my emails.

2. **Background**

I have been on the receiving end of judicial bullying and bastardisation since 2014.
20 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, and on the 17/5/19 where there were 4 courts 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
30 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.

10 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.

3. **Matter Details**

Jane Doe and Ors v Shane Dowling – Commenced 21st December 2016 –

20 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 shareholder's funds. The matter started off at an ex parte hearing (as per the previous two SLAPP

30 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

10 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.

The matter should be struck out for want of prosecution but Justice Hoeben has

20 also set it down for final hearing on the 26th and 27th August which it should have never been given the applicants have had almost 12 months to have the matter set down for final hearing and have refused to do so until I forced the issue.

Perceived bias and real bias by Justice Clifton Hoeben

Justice Hoeben's refusal to recuse himself from this matter scandalizes the court given I did 4 months jail last year because I was found guilty for calling Justice Clifton Hoeben a paedophile, calling Registrar Christopher Bradford a suspected paedophile and known bribe-taker and breaching 2 suppression orders because I wrote about the contempt charge. Justice Tom Bathurst has had justice Clifton

30 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.

This Capilano Honey matter was before Justice Clifton Hoeben on the 3rd of May and he dismissed my Notice of Motion in that matter on the 13/5/19 as he said I

need leave of the court which he refused. The respondents had not asked for the matter to be dismissed and had emailed me draft orders for the filing of evidence and had a barrister in court for the purpose of directions. Justice Hoeben had taken it upon himself to summarily dismiss my notice of motion for contempt which denied me natural justice. See judgment: Capilano Honey Ltd v Dowling (No 3) [2019] NSWSC 539 (13 May 2019)

At paragraphs 11 and 12 of Justice Hoeben's judgment he deals with my application for him to recuse himself based on a previous judgment which he
10 refuses to recuse himself. Nowhere in his judgment does Justice Hoeben mention I requested he recuse himself given I did 4 months jail last year because I was found guilty for calling Justice Clifton Hoeben a paedophile, calling Registrar Christopher Bradford a suspected paedophile and known bribe-taker and breaching 2 suppression orders because I wrote about the contempt charge. Nor does Justice Hoeben mention that I requested he recuse himself given the police charged me with a criminal offence which related to the email I sent the court on the 6th of September 2016 I sent an email to all the judges of the Supreme Court of NSW accusing 15 judges, 2 registrars and 1 magistrate of being paedophiles or suspected paedophiles and raising allegations of judicial bribery. The CDPP later
20 dropped the charge because it was blatantly malicious.

4. Contempt Charge – Perceived bias

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
30 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

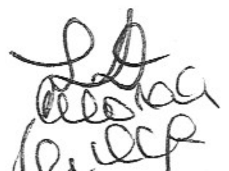
Registrar Bradford about him in court and he did not complain and refused to recuse himself from hearing the matter. So in September 2016 what I said to Registrar Christopher Bradford was such a minor issue he could still hear matters involving me but in February 2017 it was such a huge issue that he 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. This is another reason why the matter should be
10 removed to the High Court of Australia.

5. 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
20 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. This is another reason why the matter should be removed to the High Court of Australia.

6. Police charge

The police charged me in June 2017 for sending the email in September 2016.
30 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

10 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*

20 *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/

This is another reason why the matter should be removed to the High Court of Australia.

7. **The other 3 SLAPP lawsuits are:**

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

30 **Munsie v Shane Dowling** – Commenced April 2014 – Was only finalized on Monday the 27th of May 2019 after 5 years. 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.

10 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

20 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

30 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.
The applicants instituted defamation proceedings against me on the 7th of October 2016 at an ex parte hearing where they were granted a super-injunction, non-publication orders and suppression orders in relation to 2 articles I published on
10 my website Kangaroo Court of Australia. The first article was published on the 17th of September 2016 titled "Australia's Capilano Honey admit selling toxic and poisonous honey to consumers" and the second article was published on the 6th of October 2016 titled "Sex tape featuring Capilano Honey CEO Ben McKee covered up by Directors". The first article was always their real concern as it went viral in Australia and overseas and exposed Capilano for selling fake and poisonous honey. The claim against me is almost identical to a claim that Capilano Honey and Ben McKee have against Simon Mulvany in the Victorian Supreme Court.

Kerry Stokes is a major shareholder of Capilano Honey and the lawyers and
20 barrister being used are the same lawyers and barrister Kerry Stokes has used for 3 other SLAPP lawsuits against me and he is obviously the person driving these legal proceedings on behalf of Capilano Honey. The matter has been going for over 2 ½ years and has deliberately gone nowhere which is the standard strategy for SLAPP lawsuits.

Capilano Honey's lawyers have written to many internet search engines and social media companies such as Google, Facebook and Twitter demanding that they block my original articles and other articles I have since written about the fake honey because of the dodgy court orders they got in October 2016. The
30 suppression orders have since been lifted but Capilano Honey and their lawyers refuse to write to the search engines and social media companies asking them to stop blocking the articles.

From October 2016 up until early 2018 I was threatened many times with contempt proceedings and being jailed because I continued to write about the issue and warn the public about health and safety dangers of the fake and poisonous honey.

On the 8th of June 2018 Justice Lucy McCallum lifted the non-publication orders and suppression orders that had been issued in October 2016. The super-injunction had been lifted by consent in April 2018 as Justice McCallum pointed out how scandalous it was. The judgment is Capilano Honey Ltd v Dowling (No 2)
10 [2018] NSWSC 865 (8 June 2018) The lifting of the suppression orders was stayed for 7 days to allow Capilano Honey to appeal.

Capilano Honey and Ben McKee appealed Justice McCallum's judgment and the appeal was heard on the 19 July 2018. That date is very important because of what Capilano Honey's lawyer Alexander Latu did a few days later and before the court of appeal handed down their decision. The Court of Appeal handed down an interim judgment continuing the suppression orders until the appeal could be heard. The judgment gave a good indication that I would win the appeal. The decision is at: Capilano Honey Ltd v Dowling (No 1) [2018] NSWCA 128 (15 June
20 2018)

In July 2018 Coles stopped selling Capilano's Allowrie branded honey which was mostly made up of fake Chinese honey.

On the 7th of September 2018 Capilano Honey had their lawyer Alexander Latu from Addisons Lawyers write to Google using the original court orders from October 2016 and asked Google to block another 18 articles on my website and social media accounts on the fake and poisonous honey issue. He did that knowing the Court of Appeal decision was not far away and that Capilano Honey
30 would lose.

On the 3rd of October the NSW Supreme Court – Court of Appeal handed down their judgment and I had won on all grounds in a unanimous decision where Capilano Honey's and Ben McKee's lawyers had been caught out using hearsay

evidence, second hand hearsay evidence and in numerous points no evidence at all to try and justify their claim. The judgment is at: Capilano Honey Ltd v Dowling (No 2) [2018] NSWCA 217 (3 October 2018)

While not expressly saying so the Court of Appeal decision identified all the characteristics that shows Capilano Honey's and Ben McKee's claim against me is a blatant SLAPP lawsuit to try and allow Capilano to continue to profit from selling fake and poisonous honey.

10 On the 2nd / 3rd of September 2018 it was reported in the media that Capilano Honey's Allowrie branded honey had been tested and had returned a result saying is was fake honey. I understand that Capilano Honey has since stopped selling the Allowrie brand, but it is still selling other brands that are mixed with the fake Chinese honey.

On the 8th of April 2019 I filed and served a notice of motion to charge the applicants and their lawyers with contempt of court for trying to destroy evidence etc. It was summarily dismissed by Justice Hoeben on his own accord even though Capilano Honey, Ben McKee and their lawyers has a barrister show up to
20 court to represent them and they had also sent me draft order for the filing of evidence etc. I also asked Justice Hoeben to recuse himself for perceived bias which he refused in a judgment on the 13/5/19. One of the key reasons I asked Justice Hoeben to recuse himself is because I spent 4 months in jail in 2018 which was in part because I was found guilty of calling Justice Hoeben a pedophile in court and nowhere in Justice Hoeben's judgment where he refuses to recuse himself does he mention that.

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
30 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 3rd of July 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.

10

8. HIGH COURT NEEDS TO MAKE SLAPP LAWSUITS ILLEGAL

The High Court of Australia should have all my matters removed to the High Court because it is in the public interest to have SLAPP lawsuits made illegal.

AFFIRMED by the deponent
at ~~Sydney~~ in NSW BONDI JUNCTION
on 26/6/19.

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

Signature

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

Signature of deponent

*[delete if inapplicable]

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

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

Affidavit of Shane Dowling affirmed on 26th of June 2019

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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PARAGRAPH	PAGE
"A"	Statement of Claim	1	14
"B"	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	1	25
"C"	Judgment – Justice Walton – August 2018	1	50

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[<u>Notes</u>

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.]

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

10

Jane Doe 1
First Respondent
Jane Doe 2
Second Respondent
Jane Doe 3
Third Respondent
Jane Doe 4
Fourth Respondent

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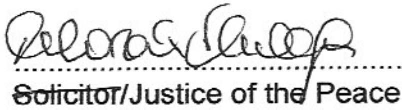
EXHIBIT "A"

This is the exhibit marked "A" produced and shown to Shane Dowling at the time of affirming his affidavit this 26/6/19.

Statement of Claim

30 Before me



~~Solicitor~~/Justice of the Peace

This is the annexure marked with the letter 'A' referred to in the Affidavit/~~Statutory Declaration~~ of SHANE DOWLING ~~sworn~~/affirmed/~~declared~~ before me at BONDI JUNCTION on the 26 day of JUNE 2019

~~One page only~~
Page 1 of 9 pages

223899
Justice of the Peace Registration

Form 3A (version 5)
UCPR 6.2

AMENDED STATEMENT OF CLAIM

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Defamation
Registry	Sydney
Case number	2016/383575

TITLE OF PROCEEDINGS

First plaintiff	**Jane Doe 1**
No. of plaintiffs	**4**
Defendant	**Shane Dowling**

FILING DETAILS

Filed for	Jane Doe 1, Jane Doe 2, Jane Doe 3 and Jane Doe 4, plaintiffs
Legal representative	Martin O'Connor Level 12, 60 Carrington Street, Sydney 2000
Legal representative reference	RMK:MOC
Contact name and telephone	Richard Keegan, +61 8915 1075

TYPE OF CLAIM

Torts – other - defamation

RELIEF CLAIMED

1 An order permanently restraining the defendant from publishing the imputations as contained in this statement of claim.

2 Damages.

3 Costs and interest on costs.

4 Any further or other order as the Court thinks fit.

PLEADINGS AND PARTICULARS

Plaintiffs

1 The first plaintiff is, and has been for at least 10 years, an actress who has appeared on programs produced and broadcast by the Seven Network.

2 The second plaintiff is, and has been for at least 13 years, employed by the Seven Network in an on air role.

2A The third plaintiff is, and has been for at least 6 years, employed by the Seven Network in an administrative role

2B The fourth plaintiff was formerly employed by the Seven Network in an administrative role.

23 The defendant is the registrant of the domain name kangaroocourtofaustralia.com and the publisher of a website connected to that domain name called Kangaroo Court of Australia (**Website**).

34 On or about 21 December 2016, the defendant published of and concerning the plaintiffs an article on the Website, a transcript of which is set out at pages 10-18 of Exhibit RMK-1 to the affidavit of Richard Michael Keegan sworn 20 February 2017 (**The 21 December 2016 Article**).

Particulars of publication

The 21 December 2016 Article was downloaded and read by several persons, including:

i. Each of the persons who made comments on **The 21 December 2016 Article** under the respective user names Les Kelly, Diarmuid Hannigan, ohdeah, Bob.

ii. Of the persons listed above, at least one, Les Kelly, is a resident of Tasmania.

45 The **21 December 2016 Article** in its natural and ordinary meaning carried the following imputations, each of which is defamatory of the respective plaintiffs:

First Plaintiff

a. The first plaintiff, an actress, has been in an adulterous relationship with Tim Worner, CEO of Seven West Media.

b. The first plaintiff behaved disgracefully in that she had an affair with a man she knew to be married.

Second Plaintiff

c. The second plaintiff, a media personality employed by Seven West Media, has been in an inappropriate sexual relationship with the CEO Tim Worner, a married man.

d. The first plaintiff behaved disgracefully in that she had an affair with a man she knew to be married.

Particulars

The plaintiffs rely on the following parts of **The 21 December Article** as giving rise to the imputations listed above:

a. The whole of **The 21 December Article** and in particular lines 13-15, 117-119.

56 By reason of the publication of **The 21 December 2016 Article**, the plaintiffs have brought into hatred, ridicule and contempt and has suffered and continues to suffer loss and damage to their reputation and injury to their feelings.

7 On or about 19 February 2017, the defendant published of and concerning the plaintiffs an article on the Website, a copy of which is set out at pages 11 to 20 of Exhibit RMK-1 to the affidavit of Richard Michael Keegan sworn 20 February 2017 (**The 19 February 2017 Article**).

8 The **19 February 2017 Article** contains a link to an article on a secondary website, a copy of which is set out at pages 21 to 24 of Exhibit RMK-1 to the affidavit of Richard Michael Keegan sworn 20 February 2017 (**The secondary Article**).

Particulars of publication

The 19 February 2017 Article was downloaded and read by several persons, including:

i. Each of the persons who made comments on **The 19 February 2017 Article** under the respective user names Les Kelly, Doubtful John, melbaver, Gman, JaneLise C, Ozzir, Garry, Jonde.

ii. Of the persons listed above, at least one, Les Kelly, is a resident of Tasmania

The Secondary Article was republished by the plaintiff on his Twitter account @kangaroo_court downloaded and has received comments from Murray James who is a resident of New South Wales

The 19 February Article was republished by the defendant on his Facebook pages, @kangaroocourtofaustralia and @shanedowling, which republications have been downloaded and read by several people.

9 The 19 February 2017 Article and the Secondary article each, in their natural and ordinary meaning carried the following imputations, each of which is defamatory of the respective plaintiffs:

First Plaintiff

a. The first plaintiff, an actress, has been in an adulterous relationship with Tim Worner, CEO of Seven West Media.

b. The first plaintiff behaved disgracefully in that she had an affair with a man she knew to be married.

Second Plaintiff

c. The second plaintiff, a media personality employed by Seven West Media, has been in an inappropriate sexual relationship with the CEO Tim Worner, a married man.

d. The first plaintiff behaved disgracefully in that she had an affair with a man she knew to be married.

Third Plaintiff

a. The third plaintiff, while an employee of Seven West Media, had been in an inappropriate sexual relationship with Tim Worner, CEO of Seven West Media.

Fourth Plaintiff

a. The fourth plaintiff, while an employee of Seven West Media, has been in an inappropriate sexual relationship with Tim Worner, CEO of Seven West Media.

Particulars

The plaintiffs rely on the following parts of the 19 February 2017 Article and the Secondary Article as giving rise to the imputations listed above:

a. The whole of The 19 February 2017 Article and in particular lines 54-70, 70-72.

b. The whole of The Secondary Article and in particular lines 1-25, 65-78.

10. By reason of the publication of **The 20 February Article and the Secondary Article**, the plaintiffs have brought into hatred, ridicule and contempt and has suffered and continues to suffer loss and damage to their reputation and injury to their feelings.

611 The plaintiffs claim the relief set out in this statement of claim.

Particulars of aggravated damages

i. The failure by the defendant to make any enquiry of the plaintiffs prior to publication;

ii. The defendant's misrepresentation, in the matters complained of, of the information in its possession;

iii. The plaintiff's knowledge of the falsity of the imputations;

SIGNATURE OF LEGAL REPRESENTATIVE

This statement of claim does not require a certificate under section 347 of the Legal Profession Act 2004.

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 for the plaintiffs
Date of signature	20 February 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 plaintiff's 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.lawlink.nsw.gov.au/ucpr or at any NSW court registry.

REGISTRY ADDRESS

Street address	Supreme Court of New South Wales, Law Courts Building, 184 Phillip Street, Sydney
Postal address	Supreme Court of NSW, GPO Box 3, Sydney NSW 2001
Telephone	1300 679 272

FURTHER DETAILS ABOUT THE PLAINTIFF

First Plaintiff

Name	Jane Doe 1
Address	c/- Level 12, 60 Carrington Street SYDNEY NSW 2000

Second Plaintiff

Name	Jane Doe 2
Address	c/- Level 12, 60 Carrington Street SYDNEY NSW 2000

Third Plaintiff

Name	Jane Doe 3
Address	c/- Level 12, 60 Carrington Street SYDNEY NSW 2000

Fourth Plaintiff

Name	Jane Doe 4
Address	c/- Level 12, 60 Carrington Street SYDNEY NSW 2000

Legal representative for plaintiffs

Name	Martin O'Connor
Practising certificate number	8768
Firm	Addisons
Contact solicitor	Richard Keegan
Address	Level 12, 60 Carrington Street Sydney NSW 2000
DX address	131 Sydney
Telephone	02 8915 1075

2062616_2

Fax	02 8916 1076
Email	richard.keegan@addisonslawyers.com.au
Electronic service address	richard.keegan@addisonslawyers.com.au

DETAILS ABOUT DEFENDANT

Defendant

Name	Shane Dowling
Address	5/68-70 Curlewis Street Bondi Beach NSW 2026

IN THE HIGH COURT OF AUSTRALIA
SYDNEY REGISTRY

No. of 20__

BETWEEN:

Shane Dowling
Applicant

and

10

Jane Doe 1
First Respondent
Jane Doe 2
Second Respondent
Jane Doe 3
Third Respondent
Jane Doe 4
Fourth Respondent

20

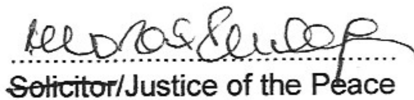
EXHIBIT "B"

This is the exhibit marked "B" produced and shown to Shane Dowling at the time of affirming his affidavit this 26/6/19.

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

30

Before me



~~Solicitor~~/Justice of the Peace

This is the annexure marked with the letter 'B' referred to in the Affidavit/~~Statutory Declaration of~~ SHANE DOWLING ~~sworn~~/affirmed/~~declared~~ before me at BONDI JUNCTION on the 26 day of JUNE 2019

~~One page only~~
Page 1 of 25 pages

223879
Justice of the Peace Registration

40

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

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

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 P190A
Version 4.2 (07/05)

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]	Signature:	[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.

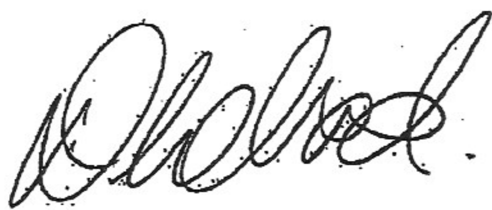
9. On the 20th September 2016, I received and email reply from Julian Caldwell. This email was sent with an attachment which was a 21 page document regarding advice regarding the email from Shane Dowling.

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.



CHRIS D'AETH
2/1/17

David Collard
2/2/17

20-10-'17 09:22 FROM- SYDNEY CITY DETS 02-9265-6466 T-003 P0008/0058 F-730

NSW POLICE FORCE P190B

STATEMENT OF POLICE

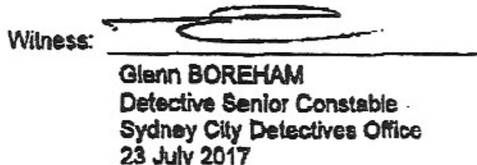
In the matter of:	Police -V- Shane DOWLING (Telecommunications Offence)
Place:	Sydney City Detectives Office
Date:	23 July 2017

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

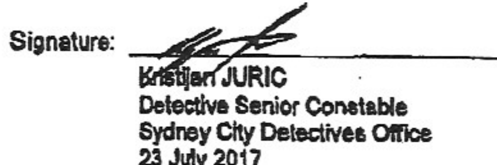
STATES:

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; SCO - 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

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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.macfarlania@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_awi@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_krigrev@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.brereionj@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; katherine_young@courts.nsw.gov.au; margaret.smith2@courts.nsw.gov.au; anne_cochrane@courts.nsw.gov.au; barbara_rubens@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

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.

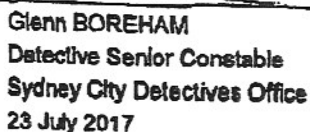
8. On the 1st of May 2017, I created and submitted IASK_7795363 seeking to obtain the subscriber detains for IP address 121.209.47.66, linked to email address shanedowling@hotmail.com.

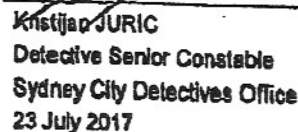
9. On the 2nd of May 2017, result for IASK_7795005, returned a result with the subscriber for mobile phone number 04112238704 being Shane DOWLING.

   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

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).

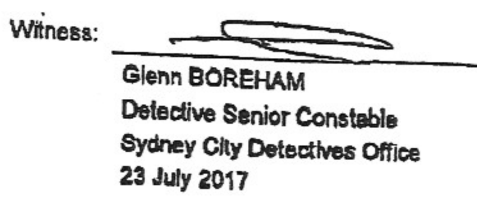
12. At the completion of the briefing I along with other police left Bondi Police Station and travelled to 68-70 Curlewis Street Bondi Beach. Upon arriving at the location, I approached apartment 5 and knocked on the door three times and called out police, with no response. I then requested tactical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

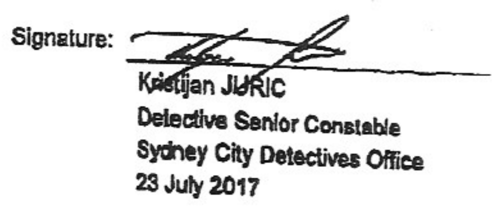
14. Once police attached to CMROSG left the location, the search of the premises commenced. I remained inside the location until 9:25am at which time the search of the premises concluded. I was the last person to exit the premises and ensured the front door was locked and secured. I along with other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

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.

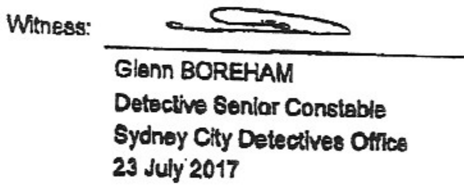
21. At 1:15pm this day I opened and examined exhibit X0002485802, being a HP laptop computer. I reviewed a number of documents and files contained on the laptop. During this time I located in folder "C:/Users/shane_000\Documents\Kangaroo Court\Posts\NSW Supreme Court" a document named "Chief Justice 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.

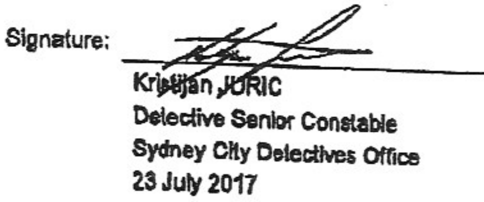
Witness: Glenn BOREHAM, Detective Senior Constable, Sydney City Detectives Office, 23 July 2017

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

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

Version 4.5 (05/2016)

STATEMENT OF A WITNESS

er of: Police -V- Shane DOWLING

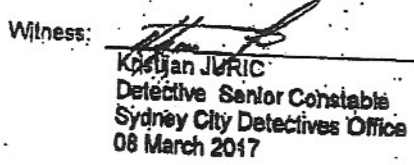
Sydney City Detectives Office

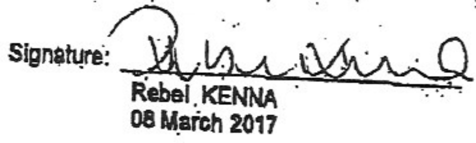
08 March 2017

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

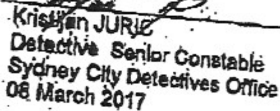
Signature: 
Rebel KENNA
08 March 2017

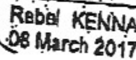
this information published on the internet by the end of business on this day and if I wished to dispute these allegations to reply to him by email by 5:00pm on this day, however I received this email at 5:19pm.

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)

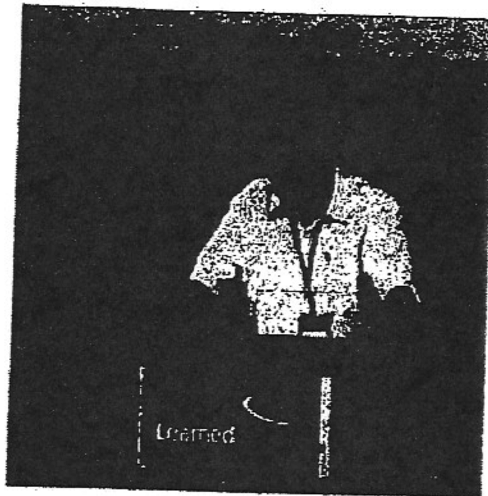
Father Flaherty's lawyers did the big sob story that he suffered numerous health issues and only had 6 to 12 months to live. Half the criminals before the courts argue similar things and they don't get reduced sentences.

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 now 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.

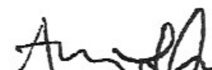
Then on October the 6th 2016 I wrote an article titled "*Sex tape featuring Capilano Honey CEO Ben McKee covered up by Directors*" and I wrote:

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.

SHANE 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
121 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

10

Jane Doe 1
First Respondent
Jane Doe 2
Second Respondent
Jane Doe 3
Third Respondent
Jane Doe 4
Fourth Respondent

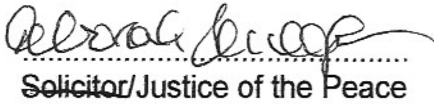
20

EXHIBIT "C"

This is the exhibit marked "C" produced and shown to Shane Dowling at the time of affirming his affidavit this 26/6/19.

Judgment – Justice Walton – August 2018

30 Before me



~~Solicitor~~/Justice of the Peace

This is the annexure marked with the letter 'C' referred to in the Affidavit/~~Statutory Declaration~~ of SHANE DOWLING ~~sworn~~/affirmed/~~declared~~ before me at BONDI JUNCTION on the 26 day of JUNE 20 19

~~One page only~~
Page 1 of 14 pages

223899
Justice of the Peace Registration

Supreme Court

New South Wales

Case Name:	Doe 1 v Dowling
Medium Neutral Citation:	[2018] NSWSC 1278
Hearing Date(s):	14 June 2018
Date of Orders:	17 August 2018
Decision Date:	17 August 2018
Jurisdiction:	Common Law
Before:	Walton J
Decision:	The plaintiffs are directed to bring in short minutes of order reflecting this judgment within 7 days of the publication of this judgment.
Catchwords:	PRACTICE AND PROCEDURE – application for strike out – r 14.28 Uniform Civil Procedure Rules 2005 (NSW) – whether a reasonable defence is disclosed – whether the defence has a tendency to cause prejudice, embarrassment or delay in the proceedings – whether the court may strike out pleadings – defences in defamation proceedings – whether the court should permit the defendant to re-plead the defence – defence of absolute privilege – defence of qualified privilege – defence of truth – defence of triviality – defence of honest opinion – absence of viable defence – whether it is inappropriate to make orders for discovery or interrogatories prior to the pleadings closing – defence struck out – defendant not permitted to re-plead
Legislation Cited:	Courts Suppression and Non-publication Orders Act 2010 (NSW) Defamation Act 2005 (NSW) Uniform Civil Procedure Rules 2005 (NSW)

Cases Cited:	Doe v Dowling [2017] NSWSC 1793 Jane Doe 1 v Dowling (No 5) (Unreported, Supreme Court New South Wales, Fagan J, 10 February 2017) Jane Doe 1 and Jane Doe 2 v Dowling [2016] NSWSC 1909
Texts Cited:	Supreme Court of New South Wales, Practice Note SC CL 4 – Defamation List, 5 September 2014
Category:	Procedural and other rulings
Parties:	Jane Doe 1 (First Plaintiff) Jane Doe 2 (Second Plaintiff) Jane Doe 3 (Third Plaintiff) Jane Doe 4 (Fourth Plaintiff) Shane Dowling (Defendant)
Representation:	Counsel: S Dawson SC (Plaintiffs) Solicitors: Addisons Lawyers (Plaintiffs)
File Number(s):	2016/383575
Publication Restriction:	Pseudonym and non-publication orders have been made in respect of the true names of the plaintiffs in these proceedings

JUDGMENT

1 **HIS HONOUR:** By a notice of motion filed on 10 May 2018, the plaintiffs sought an order that a defence filed by Shane Dowling ("the defendant") filed on 30 April 2018 ("the amended defence") be struck out pursuant to r 14.28(1) of the *Uniform Civil Procedure Rules* (NSW) ("UCPR") on the basis that no reasonable defence was disclosed and/or the defence has a tendency to cause prejudice, embarrassment or delay in the proceedings.

2 That description of the subject matter of this judgment requires explanation by recourse to the history of the proceedings. That history is set out extensively in the judgment of McCallum J in *Doe v Dowling* [2017] NSWSC 1793 at [1]-[26].

3 An action for defamation was commenced by two plaintiffs by statement of claim on 21 December 2016. Those proceedings arose out of the publication of material on a website operated by the defendant. At that time the plaintiffs were Jane Doe 1 and Jane Doe 2 (Campbell J made an order pursuant to s 7 of the *Courts Suppression and Non-publication Orders Act 2010* (NSW) prohibiting publications of the names of the first and second plaintiffs: see *Jane Doe 1 and Jane Doe 2 v Dowling* [2016] NSWSC 1909).

4 There were injunctive proceedings which were described in the judgment of McCallum J. On 21 February 2017, following the publication of further material on the defendant's website, an amended statement of claim was filed joining two additional plaintiffs under the pseudonyms Jane Doe 3 and Jane Doe 4. The plaintiffs on the present motion are Jane Doe 1, 2, 3 and 4, respectively.

5 The defendant filed a defence to the statement of claim brought by Jane Doe 1 and Jane Doe 2 ("the first and second plaintiffs") but that was struck out by Fagan J on 10 February 2017 for reasons stated by his Honour in *Jane Doe 1 v Dowling (No 5)* (Unreported, Supreme Court New South Wales, Fagan J, 10 February 2017). A second defence produced by the defendant was the subject of a further strike out application but the filing of the amended statement of claim intervened.

6 The present application relates to the amended defence filed on 30 April 2018.

The applicable rules

7 The Court may strike out the whole or any part of a pleading under r 14.28 of the UCPR, which rule is in the following terms:

> **14.28 Circumstances in which court may strike out pleadings**
>
> (1) The court may at any stage of the proceedings order that the whole or any part of a pleading be struck out if the pleading:
>
> > (a) discloses no reasonable cause of action or defence or other case appropriate to the nature of the pleading, or
> >
> > (b) has a tendency to cause prejudice, embarrassment or delay in the proceedings, or
> >
> > (c) is otherwise an abuse of the process of the court.

> (2) The court may receive evidence on the hearing of an application for an order under subrule (1).

8 Defences in defamation proceedings must comply with the general pleading rules and those specifically dealing with pleading and particularising defamation defences pursuant to Pts 14 and 15 of the UCPR. Given the wholesale deficiency in the pleadings in the amended defence, it is unnecessary to refer to particular aspects of those rules. In short, as I will discuss, the amended defence fails to comply with any of the basic rules or principals of pleading a defence.

Legal principles

9 There was no dispute about the legal principals encapsulated in the written submissions of the plaintiffs. In my view they are correct and I extract them below:

> *No reasonable cause of action or defence*
>
> 8. It may be accepted that the power to strike out pleadings because they disclose no reasonable cause of action or defence should be exercised in only plain and obvious cases. The test has been variously expressed, including "so obviously untenable that it cannot possibly succeed" and "manifestly groundless": *General Steel Industries Inc v Commissioner for Railways (NSW)* (1964) 112 CLR 125 (General Steel) at 128-129 per Barwick CJ; *Dey v Victorian Railways Commissioners* (1949) 78 CLR 62 (Dey) at 91 per Dixon J.
>
> 9. The function and importance of properly pleaded and particularised defences in defamation proceeings was explained by Hunt J in *Sims v Wran* [1984] 1 NSWLR 317 at 321-330.
>
> 10. The question for determination is whether a reasonable cause of action is disclosed, that is a cause of action which has some chance of success, or which could conceivably give the defendant a right to relief, or which, although weak, is properly debatable, and has some apparent legitimate basis, if the facts upon which it is alleged to be based are made good: *Preston v Star City Pty Limited* [1999] NSWSC 1273 at [37] (citations removed):
>
> > [37] The question for determination, in accordance with the authorities, seems to me to come down to the question whether a reasonable cause of action is disclosed, ie a cause of action which has some chance of success, or which could conceivably give the plaintiff a right to relief, or which, although weak, is properly debatable, and has some apparent legitimate basis, if the facts upon which it is alleged to be based are made good ...
> >
> > [38] It is one thing to strike out a case which is clearly doomed to failure. The jurisdiction to do so was properly described by Kirby P in *Edwards* (at 7) as a "beneficial one ... designed to relieve parties of the expense, anxiety and distraction of meritless litigation". It is another

thing, however, to deprive a litigant of having an arguable case heard at trial. As Kirby P also said, in the same case (at p8):

> "Unless the remedy is effectively confined to cases 'for protecting a defendant from vexation by the continuance of proceedings which must be useless and futile', it would have the consequence of substituting summary judicial impression for determination on the merits, having heard both evidence and argument in the normal way of our courts..."

Embarrassment

11. A pleading is embarrassing if it is unintelligent, ambiguous, or so imprecise in its identification of material factual allegations as to deprive the opposing party of proper notice of the real substance of the claim or defence: *McGuirk v The University of New South Wales* [2009] NSWSC 1424 at [30]-[35]:

> [30] A pleading is embarrassing where it is *"unintelligible, ambiguous, vague or too general, so as to embarrass the opposite party who does not know what is alleged against him"* [...].
>
> [31] In *Shelton v National Roads & Motorists Association Limited* [2004] FCA 1393 at [18], Tamberlin J explained the concept of *"embarrassment"* with respect to pleadings:
>
> > "Embarrassment in this context refers to *a pleading that is susceptible to various meanings, or contains inconsistent allegations, or in which alternatives are confusingly intermixed, or in which irrelevant allegations are made that tend to increase expense.* This is not an exhaustive list of situations in which a pleading may be embarrassing: see *Bartlett v Swan Television & Radio Broadcasters Pty Ltd* (1995) ATPR 41-434."
>
> [32] A pleading may be embarrassing even though it contains allegations of material facts sufficient to constitute a cause of action, if the material facts alleged are couched in expressions which leave difficulties or doubts about recognising or piecing together what is referred to [...]
>
> [33] Although the pleading of a conclusion may, in some circumstances constitute a material fact, nevertheless, *the pleading will be embarrassing if allegations are made at such a level of generality that the defendant does not know in advance the case it has to meet* [...]. *In such a case, the appropriate remedy is to strike out the pleading rather than to order the provision of particulars, as it is not the function of particulars to take the place of the necessary averments in a pleading* [...].
>
> [34] Rule 14.28 UCPR provides that pleadings that involve non-compliance are liable to be struck out as an embarrassment. However, generally the Courts recognise that a wide range of discretionary considerations arise where there is a failure to comply with the technical requirements of the pleading rules [...]. In many instances, the appropriate order may be to strike out the offending pleading, but grant leave to amend [...].

> [35] It is not the function of the Court to draw or settle a party's pleading. The Court is confined to the function of ensuring that pleadings are within the rules and fulfil the functions for which they exist. Objectionable matter that is so mingled with other matter may lead to the conclusion that the pleading as a whole would tend to embarrass the fair trial of the action ought be struck out [...].
>
> [Emphasis added and citations omitted by the plaintiff.]

Consideration

10 Neither party called evidence on the motion but that deficiency is of no consequence given that the fundamental deficiencies in the pleadings within the amended defence.

11 At the broadest level, the amended defence merely replicates or paraphrases the provisions of the *Defamation Act 2005* (NSW) as constituting the defences. At best, it may be concluded that the defendant has identified the subject matter of the defence.

12 None of the requirements for the pleading and the particularisation of the defences as set out in UCPR rr 14.31-14.4 and 15.21-15.30 were complied with in the amended defence. Nor is there any reference to particular paragraphs of the amended statement of claim and, therefore, there is no indication as to whether the relevant defences were raised in relation to every matter complained of or only some. An illustration of this non-compliance is the "justification" defence, as pleaded by the defendant, which does not traverse the imputations to which it is directed. Similarly, the "contextual truth" defence does not plead a single contextual imputation conveyed in addition to the plaintiffs' imputations. Further, there are no particulars of factors, matters and/or circumstances which the defendant relies upon to prove the defences.

13 As the plaintiffs submitted, this is not a case where the amended defence simply fails to disclose a reasonable defence. The omission rises to the level of failing to disclose a defence such as to perform the very basic obligation of informing the plaintiffs of the case they would be required to meet.

14 In many respects, these difficulties were anticipated by the defendant who contended, at the outset of the hearing of the notice of motion, that the Court should permit him to re-plead the defence in the event that it was struck out.

The balance of the proceedings then occupied argument as to that question. In the result, at the close of the hearing, the Court indicated that it intended to strike out the amended defence but to reserve the question of whether the defendant would be permitted to re-plead.

15 The preceding components of these considerations constitutes the foundation for the conclusion that the amended defence is so obviously untenable that it cannot possibly succeed and the reasons for the determination that the amended defence should be struck out. The balance of these considerations deals with that question and the additional question of whether the defendant should be granted leave to re-plead in those circumstances.

16 The plaintiffs submitted that, given the history of the litigation and the nature of the present pleadings, there is little chance that leave to re-plead "will result in a document that complies with the relevant rules and principles". It was submitted that, in the light of McCallum J's reasons in *Doe v Dowling*, it was apparent that the defendant had no defence.

17 In reply to the submissions developed by the defendant, to which I will return to momentarily, the plaintiffs submitted that the defendant's reliance upon discovery or interrogatories demonstrated the absence of an available defence for the defendant (the plaintiffs contending that it was inappropriate to make orders for discovery or interrogatories prior to the pleadings closing). Further, the defendant had been given every opportunity to articulate his position.

18 The defendant contended that he was in a position to improve the form of the pleadings having acquired an example of the pleading of a defence from another proceeding.

19 He was asked to indicate what the substance of his defence might be, with a view to ascertaining whether, irrespective of particular form requirements of a defence, a re-pleading may produce, in substance, a defence.

20 In response to that inquiry the defendant traversed a number of aspects of his pleadings but ultimately came to the submission "[m]y view point is that I need interrogatories and discovery first to re-plead" and "so that's why my view point

is: if you were minded to do anything, leave is granted for me to file, if need be, the interrogatories and discovery, and a notice of motion to have them issued".

21 As to particular aspects of the defence, the defendant placed primary reliance upon absolute privilege. That submission was predicated upon the basis that the document published on his website had been deployed elsewhere in circumstances that would attract absolute privilege and in particular he relied upon the fact that the document was deployed in proceedings in the Australiana Human Rights Commission. He contended that all "[he] did was repeat what was in that Australian Human Rights Commission legal document".

22 The defendant also referred to the defences of truth and triviality. He referred to statements made by Ms Amber Harrison in an article in "the Telegraph". Reference was made to honest opinion (it was submitted that "it's highly likely it's true") and qualified privilege.

23 None of the submissions took up the invitation of the Court to add to submissions that had been made before McCallum J in *Doe v Dowling* or re-characterise those submissions or to expand upon the basis for them. That said, having regard to the submissions of the parties, it is necessary to spend some little time further considering the judgment of McCallum J in *Doe v Dowling.*

24 The starting point of that consideration must be to note that her Honour was dealing with the question as to whether the fifth order made by the Court, as presently constituted, granting injunctive relief should be continued. One of the considerations undertaken by her Honour in that respect was whether, on the evidence and having regard to the circumstances of publication, there was any real ground for supposing that the defence might succeed. This was necessary to determine because, if the publication may be defensible, an injunction should not be granted because of the public interest in free speech. That issue involved both a consideration of the nature and quality of the evidence (see *Doe v Dowling* at [19]) and the prospect that the circumstances of publication, without more, might point to the prospect of a good defence (*Doe v Dowling* at [21]).

25 It is also important to note that her Honour stated that "nothing in this judgment determines the fate of any future defence". The only question, her Honour observed, at that stage of proceedings was whether there appears to be a viable defence; if there is, the plaintiffs application must fail (*Doe v Dowling* at [26]).

26 Turning to the primary submission advanced by the defendant as to absolute privilege, her Honour observed (*Doe v Dowling* at [34]):

> [34] Mr Dowling contends that the defence of absolute privilege would be available to him on the basis that the defamatory document published on his website has been deployed elsewhere in circumstances which would attract absolute privilege. In particular, he relies on the fact that the document was deployed in proceedings in the Australian Human Rights Commission. Separately, and with some ingenuity, he relies on the fact that it was pleaded by him in his original defence. The submission misconceives the defence. Even if either of those occasions was one of absolute privilege, it would not follow that the repetition of the contents of the document on Mr Dowling's website enjoyed the same protection (as I endeavoured to explain to Mr Dowling at T29-30).

27 In substance, the defendant's contention is that the document published on his website had been deployed elsewhere in circumstance that attract absolute privilege such that the document enjoyed the "same protection".

28 The difficulty with that defence, so formulated, was, as her Honour observed, a defence of absolute privilege does not arise by reporting something which is the subject of absolute privilege. In any event, the reporting of that which was said under absolute privilege may at its highest attract a qualified privilege.

29 The amended defence relied upon by the defendant did not actually plead qualified privilege but the Court received, without objection, submissions from him in that respect.

30 As to qualified privilege, McCallum J stated in *Doe v Dowling* (at [36]-[39]):

> [36] As to s 30(1)(a), Mr Dowling said "I have email followers on my web site. They subscribe to my web site. They want the information that I write about." As to s 30(1)(b), he said "that's why I publish it, I'm giving the people information on my web site" (T45). The fact that Mr Dowling publishes information to people on subjects they want to read about could not satisfy those elements of the defence. It is well established that having an "interest" in having information means more than merely being interested in the

information. The interest must be founded in some legitimate concern, not mere prurience.

[37] As to s 30(1)(c), if I have understood the submission, Mr Dowling's position is that he is "covered" (presumably by s 30) because "it's been raised in the Australian Human Rights Commission" (a reference to Ms Harrison's claim). Mr Dowling said: "I believe I have the right to publish it. Whether I'm right or wrong is neither here nor there in relation to (c), I believe. Was my conduct reasonable in the circumstances? Yes."

[38] A difficulty with that submission is that, as Mr Dowling frankly acknowledges (in the exchange set out above), he has no direct or reliable information as to the truth or otherwise of the rumours repeated in his articles and did not speak to any of the plaintiffs prior to publication to obtain their version of events. That is fatal to the defence: cf *Austin v Mirror Newspapers Ltd* (1985) 3 NSWLR 354 at 364C.

[39] For those reasons, I am not persuaded that there is any real prospect of a viable defence of qualified privilege.

31 There was no change in the circumstances described in those paragraphs identified in the submissions by the defendant in these proceedings. I respectfully concur with the substance of her Honour's remarks. Some further observations in relation to interrogatories and discovery will be made below.

32 As to the defence of truth, or what the defendant described as "contextual truth", this brings to consideration the discussion at [27], [29], [31]-[33] of *Doe v Dowling*, which I extract below:

[27] I am satisfied that there is little prospect that the defendant will be in a position to prove the truth of the imputations at trial. The solicitor for the plaintiffs swore an affidavit on information and belief that the imputations are untrue. The prospect of proving otherwise arises from Mr Dowling's reliance upon a statement by Ms Harrison in which she repeated rumours as to the truth or falsity of which she evidently had no personal knowledge.

...

[29] It is clear from that exchange that this is a case falling squarely within the scope of the remarks of Ormiston J in the decision referred to above. In the circumstances of this case, it is not sufficient for Mr Dowling to assert that he proposes to plead truth and to seek to prove the truth of the allegations at trial. He has no rational basis for thinking that will be achievable. His information is unsubstantiated rumour from unknown sources.

...

[31] Other exchanges with Mr Dowling confirmed my impression that, although he is clearly intelligent and passionate about freedom of speech, he is prone to drawing extravagant conclusions on the strength of scant evidence, applying little intellectual discipline or forensic rigour. For example, in respect of the resignation of a director of Seven West following a "so called independent investigation" into the Amber Harrison dispute, he said:

> ...she resigned because she thought it was a dodgy. Well, she hasn't said, but I assume, and everyone's surmising, that she thought it was a dodgy investigation, it was just a cover-up.

> [32] On the strength of the bare fact that a director resigned after an investigation, Mr Dowling was prepared to attribute her with the opinion that the investigation was dodgy and was "just a cover-up". Yet when the plaintiffs invited the Court to draw inferences, he was quick to accuse them of speculating (T80.9). It is fair to observe that there was a measure of speculation in the relevant submission by the plaintiffs (considered below). My point here is to note the mercurial quality of Mr Dowling's rhetoric. His preparedness to adopt an intellectually rigorous approach varies according to his immediate objective.

> [33] On the evidence before me, I am not persuaded that Mr Dowling has any proper basis for asserting that the imputations concerning the third and fourth plaintiffs are substantially true. The matter complained of does no more than to repeat rumours. As noted by Mr Smark in his submissions, it is no defence for a defendant to a defamation action to say he was merely repeating a rumour. A defence of justification in respect of the repetition of a rumour requires proof of its truth.

33 In these proceedings, the defendant continued his complaint about evidence being put on in the form of a solicitor's affidavit and further submitted that the plaintiffs case was weak because they had not, themselves, gone into evidence. As the counsel for the plaintiffs properly contended this misconceived the nature of proceedings and where the onus of proof lies.

34 I make no general observations about the use of affidavits put on by solicitors on the information and belief basis. It is sufficient to note that the onus fell upon the defendant to articulate the defence of truth. There is no further evidence put on in the proceedings or identified as being available to him in that respect (or, if available, the content of any such evidence). The defendant's submission that a lot of people "look at my website, all people opt in" and "they're all interested in what I write and have a genuine interest in what I say" does not overcome these obstacles. The position as identified by McCallum J at [33] of her judgment has not changed.

35 In relation to the defence of triviality (and also in relation to the question of qualified privilege) the defendant submitted that, with the "me too" movement there was a strong argument in favour of finding qualified privilege because it is a "political issue" and there has been the lobbying of governments to change

laws so there is no "sexual harassment". It was necessary, therefore, to have discussion about such things.

36 I have earlier remarked on the question of qualified privilege but it appropriate to deal with those submissions in the context of triviality, having regard to McCallum J's decision at [40]-[41], which was in the following terms:

> [40] As to the prospect of a defence of triviality, Mr Dowling said: "these type of rumours fly around in the entertainment industry all the time". He sought to establish that worse things have been said about the plaintiffs. That may be so, but it hardly establishes a viable defence. The defence of triviality under s 33 of the *Defamation Act* focusses on whether "the circumstances of publication were such that the plaintiff was unlikely to sustain any harm". To establish that the plaintiff had suffered more serious harm by other conduct would not establish that he or she was unlikely to sustain any harm by reason of the publication of the matter complained of.
>
> [41] I do not share Mr Dowling's view as to the triviality of the imputations. Ironically, one of Mr Dowling's criticisms of Channel Seven management is their poor treatment of Ms Harrison, yet Mr Dowling's treatment of the plaintiffs scarcely shows any more tender concern. I am not persuaded that there would be a viable defence under s 33 of the *Defamation Act.*

37 The observations by McCallum J at [41] are apposite in the context of the submission made by the defendant as to the "me too" movement. The logic of the submission appears to be that the "me too" movement converted the subject matter of the defamatory document into a matter of governmental or political content thereby attracting the defence of qualified privilege at common law. However, that defence is conditioned on the requirement of reasonableness. It is difficult to conceive how a campaign which is designed to vindicate and protect those who have been victims of sexual harassment might be advanced by the publication of arguably defamatory comments about the treatment of four women employed or formerly employed by the Seven Network. It is difficult to delineate between the alleged (and unproven) treatment of the women by the management of the Seven Network from the treatment afforded them by the publication of the material in question.

38 The defence provides no particulars at all in relation to the defence of honest opinion.

39 The defendant did contend that it was his honest opinion because it was highly likely that the imputations were true. However, that does not establish in and of

itself the defence of honest opinion. As McCallum J observed (and no further submissions were made by the defendant about the matter) he does not hold the opinion expressed in the imputations. In that sense, whether the opinion is true or not is irrelevant.

40 As mentioned above, there was no further evidence produced by the defendant over that which was discussed in McCallum J's judgment. Nor are there any submissions advanced, of substance, which provided for any differentiation or advancement over that which was previously put by the defendant as to what might support a determination in favour of re-pleading. The amended defence suffers the deficits which I have described above.

41 In substance, the defendant sought to overcome those deficiencies by the issuing of interrogatories and discovery. The subject matter of the interrogatories and the discovery sought are set out in paras 11-12 of the amended defence. I do not repeat them.

The fundamental difficulty with the procedure contended for by the defendant is that it sits contrary to the procedure prescribed for the defamation list which has the practical effect of having pleadings close before orders for evidence and, particularly in the present circumstances, orders for interrogatories or discovery are made (Supreme Court of New South Wales, *Practice Note SC CL 4 – Defamation List*, 5 September 2014). Further, as submitted by the plaintiffs, the procedure advanced by the defendant merely exposes the absence of a viable defence or material upon which such a defence may be formulated or advanced.

42 It is unnecessary, in the light of those findings, to rule upon the second limb of the notice of motion, namely, the defence has a tendency to cause prejudice, embarrassment or delay; although I note there is some substance to the plaintiffs' submissions in that respect.

Conclusion

43 In the circumstances, the Court considers that the first prayer for relief in the notice of motion should be granted and that the defendant not be permitted to re-plead. Costs should be reserved.

Direction

44 The plaintiffs are directed to bring in short minutes of order reflecting this judgment within 7 days of the publication of this judgment.

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