

**From:** SHANE DOWLING <shanedowling@hotmail.com>  
**Sent:** 11 June 2020 09:10  
**To:** Richard Keegan <richard.keegan@addisons.com>; Ellen Stiles <Ellen.Stiles@courts.nsw.gov.au>  
**Subject:** RE: Capilano & Anor v Dowling (2016/29952) - Media access

Dear Ms Stiles

The same allegations are all over the internet made by many other media companies and individuals which are still there now and will still be there after a judgment is handed down in this matter so the applicants request that the media do not have access is scandalous and the original summons with basically the same information is already published on my website and has been since October 2016 which is part of the evidence filed by the applicants.

Also it is the applicants second request to limit the media's access to the court file as per below which after further consideration by me also raises a number of questions relevant to journalists access and the current request that need to be addressed.

The stance by Capilano Honey and Ben McKee for journalists to be refused access to certain parts of the court file in the Capilano Honey v Shane Dowling matter greatly undermines open justice and it raises many questions that should be addressed.

1. Why was suppressed information from two other court matters tendered in this matter when that information could not possibly help in this matter. The only inference that can be drawn is that Capilano Honey are trying for a back-door attempt to have certain information in this matter suppressed by putting it in the same folder as suppressed information from other matters. This inference is supported by the fact that Capilano Honey and Ben McKee commenced these proceeding at an ex parte hearing (secret hearing) and had a super-injunction, wide ranging suppression orders and non-publication orders issued that had no legal basis as they were eventually lifted. Capilano Honey and Ben McKee have continued to have Google block articles on my website using the same suppression orders and non-publication orders that have been lifted. Capilano Honey and Ben McKee also took legal action so their witness statements were not made public last year before the hearing.
2. Given Capilano Honey and Ben McKee claim there are documents filed and served in this matter that have suppressed information from the Munsie v Dowling matter and the Jane Doe v Dowling matter then Capilano Honey and Ben McKee should be charged with contempt of court for breaching those suppression orders.
3. How did Capilano Honey and Ben McKee legally access information that is suppressed in the Munsie v Dowling matter and the Jane Doe v Dowling matter? Who gave them permission to look at those files? And who gave them permission to file the information in open court in this matter?
4. Would Capilano Honey and Ben McKee illegally accessing information that is suppressed in the Munsie v Dowling matter and the Jane Doe v Dowling matter be an attempt to pervert the course of justice? And should the lawyers and the other people who helped them be charged with conspiracy to pervert the course of justice?

5. The Munsie v Dowling matter was Kerry Stokes, his son Ryan Stokes and their lawyer Justine Munsie suing me for defamation and the Jane Doe v Dowling matter was 2 former and 2 current female staff members at Channel 7 suing me which lawyer Richard Keegan confirmed that Seven West Media paid for the matter and he also confirmed Kerry Stokes was in regular direct contact with him during the course of the matter.
6. Kerry Stokes is the only one who could of granted access to the suppressed information in the Munsie v Dowling matter given it was his matter and it is highly likely that he is also the one who granted access to the suppressed information in the Jane Doe matter given Seven West Media paid for it and given he took a very close interest in the matter as per Richard Keegan's evidence under oath.
7. Ben McKee did a big song and dance in his witness statement claiming how Kerry Stokes has had nothing to do with these proceedings but Kerry Stokes is the only one who would have been able to give consent for at least part, if not all, of the suppressed information used in this matter. It is also certain that Kerry Stokes gave permission for his name to be used in these proceedings in relation to the applicants claim that I had malice for writing what I did because of my dislike for Kerry Stokes. This evidence raises the point of should Ben McKee be charged with perjury given he wrote several paragraphs claiming that Kerry Stokes had nothing to do with these proceedings when clearly he has.

If the above is not addressed by the court in open court it scandalises the court given the gravity of what is written above and the open admissions by Capilano Honey's barrister in court as per the below transcript. This matter clearly needs to be set down for further hearing and further cross examination of the witnesses and Kerry Stokes should be subpoenaed to give evidence.

Capilano Honey's and Ben McKee's barrister Mr Cowden failed to provide a "list to both the Court and to Mr Dowling by the end of the week identifying those documents" as she said below in court.

Transcript from Wednesday the 27th of May 2020

Page 174 at 36 says:

COWDEN: That might be an appropriate junction for me to raise one matter.

HIS HONOUR: Just before you do, if everyone's content, subject to anything Ms Cowden is going to say now, yes, those exhibits, RMK4, 5, 6 and 7, will all be understood as incorporated as in exhibit C.

**EXHIBIT #C SUPPLEMENTED BY THE ADDITION OF EXHIBITS RMK4, 5, 6 AND 7, ADMITTED WITHOUT OBJECTION**

Yes Ms Cowden.

COWDEN: In relation to RMK6, it's been brought to my attention by my very assiduous instructing solicitors that there is likely in fact some material contained in RMK6 that may, if published by Mr Dowling, be in contravention of existing injunctions that have been put in place

in other proceedings by which I mean for example the Munsie v Dowling proceedings and the Doe v Dowling proceedings. Your Honour doesn't need to make in my respectful submission any order in relation to that, save that we would ask your Honour to treat RMK6 as confidential at this stage and what **we propose to do is to provide a list to both the Court and to Mr Dowling by the end of the week identifying those documents which in our opinion, if published, would be in contravention of the existing injunctions, to assist really Mr Dowling to help ensure that he won't be in breach.**

Page 175

HIS HONOUR: Just thinking out loud, Mr Dowling - I withdraw that. It's up to Mr Dowling to comply with the orders of other courts with regard to what he can and can't publish, and it's also up to Mr Dowling to comply with the implied undertaking in Hearne v Street which he discussed the three of us all those months ago. Subject to that, yes indeed, I think it's appropriate for you to oblige Mr Dowling, by providing him as soon as reasonably practicable with your view or your legal team's view as to what is specifically captured by orders in other proceedings about which I know little, but I don't think - I withdraw that. There's physically no-one in court and we have received no application by any person for access to the file, any third party I mean.

So that if we did I would certainly bring that to the parties' attention, but subject to your thoughts Ms Cowden it's not as it were my role to make any orders if they're already in place and it's not my role to give Mr Dowling legal advice about what he can and can't do and as well as that, I don't see any cause for particular parts of volume 6 I think you said it was to be specifically marked confidential and held confidentially on the file. Now those are just initial thoughts but are you content with that Ms Cowden?

COWDEN: We were not asking your Honour to make any orders because we respectfully agree with what your Honour has said in relation to that. Our concern over and above the potential ramifications for Mr Dowling were in relation to for example - and your Honour seems to have flagged this, but for example a member of the media or another member of the public who once these documents are tendered and form part of the evidence, if there is a request made to have copies of these documents to, for example, prepare a fair report of the proceedings, that without notice, if the Court does not have notice that there is material contained in those documents that may potentially be in breach of an injunction, a media outlet or another person might unknowingly also fall into breach of other orders. That was simply

HIS HONOUR: No I understand. Just whilst we're cutting Gordian knots as usual, can you just give me the page numbers please within volume 6 of RMK6?

COWDEN: It's not confined to volume 6. It's the documents within RMK6 being the four volume RMK6. I don't have those at hand at present unfortunately but I was proposing to have those to your Honour by the end of the week if that was permissible.

Page 176

HIS HONOUR: Just excuse me a moment. We have - just to be clear, I appreciate there's a system of volume numbers which are separate from the system of RMKs if I may call it that, but suffice to say as you say there are four volumes, 5, 6, 7, 8, which together form RMK6 and you say these documents are scattered throughout RMK6?

COWDEN: Yes, your Honour, unfortunately.

HIS HONOUR: All right, my thought is that for the time being, until they're identified - and I think they should be identified as soon as reasonably practicable - it will be understood that if there is an application by a third party, in particular the media for access to any part of RMK6, that won't be provided until the parties have had a chance to make submissions about it, either in open Court or in chambers. Are you content with that?

COWDEN: Yes, thank you.

HIS HONOUR: Are you content with that way forward, Mr Dowling?

DEFENDANT: Yes, your Honour. But I haven't got RMK6. Now, just quickly, can Mr Keegan email it to me, or - I haven't got a hard copy--

HIS HONOUR: Let me ask what the state of play is? Just before we turn to that, you've heard what's passed between Ms Cowden and me. Are you content with me taking that approach for the time being? I appreciate you say you haven't seen it. But she's saying that there's material in RMK6, that if I just allowed someone to photocopy it or have access to it willy-nilly, in accordance with open justice that might cause a problem, and that person might unwittingly do something wrong. I think for the time being, until this is made clearer, it would be right to say that I won't give the media or any other third party access to RMK6 without both parties having a chance to be heard, including yourself of course. Do you agree with that?

DEFENDANT: Well, maybe short term your Honour. But I thought they would've identified the documents 1 or 2 and put them in one folder that could've been set aside, but it's up to you.

HIS HONOUR: Possibly, but we're just trying to solve problems as they arise.

DEFENDANT: Yeah, well short term let's deal with it that way, your Honour.

HIS HONOUR: All right, yes, that will be the order until further notice. But as I say, I think there should be greater identification as soon as reasonably practicable. RMK6 is just part of this large series of volumes, Mr Dowling. Are you saying that you don't have it?

End of transcript

Regards

Shane Dowling  
Kangaroo Court of Australia