

Form 59
Rule 29.02(1)

Affidavit

No. NSD103 of 2023

Federal Court of Australia
District Registry: New South Wales
Division: General

BRUCE LEHRMANN

Applicant

NETWORK TEN PTY LIMITED ACN 052 515 250 and another
Respondents

Affidavit of: **Marlia Ruth Saunders**
Address: Level 14, 60 Martin Place Sydney NSW 2000
Occupation: Lawyer
Date: 31 March 2024

I Marlia Ruth Saunders, of Level 14, 60 Martin Place Sydney NSW 2000, Lawyer, affirm:

1. I am a Partner at Thomson Geer, solicitors for the First Respondent.
2. I am authorised to make this affidavit on the First Respondent's behalf.
3. I have affirmed six previous affidavits in this proceeding.
4. I make this affidavit from my own knowledge, except where I have stated otherwise.
Where I depose to matters on information given to me, I believe that information to be true and correct.
5. This affidavit is made in support of the First Respondent's application to reopen its case to adduce fresh evidence which has only come to its attention in the last few days, and which could not, in my view, have been obtained by the First Respondent using reasonable diligence before that time. Having considered that evidence, and discussed

Filed on behalf of (name & role of party)	First Respondent, being Network Ten Pty Limited
Prepared by (name of person/lawyer)	Marlia Saunders
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[Version 3 form approved 02/05/2019]

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it with senior counsel for the First Respondent, I believe the fresh evidence, if accepted, could materially affect the Court's assessment of the credit of the Applicant, and materially support the First Respondent's submission that the Applicant has, in the conduct of this proceeding, engaged in an extreme abuse of process.

6. Because judgment has been reserved for some time in this proceeding, and a date has been fixed for the delivery of judgment, I wish to avoid causing any embarrassment to the Court by disclosing the substance of the fresh evidence unless and until directed to do so by the Court. I have in the balance of this affidavit set out the chronology of relevant events and exhibited the fresh evidence as confidential exhibits to be served on the parties but not filed unless and until directed to do so by the Court.

Relevant chronology

7. On Thursday 28 March 2024, I was notified of the potential existence of new evidence relevant to the matters in issue in this proceeding.
8. On Friday 29 March 2024, I received an email from a solicitor regarding a foreshadowed affidavit deposing to the fresh evidence.
9. On Saturday 30 March 2024, I received an email from the solicitor which annexed an affidavit and a confidential exhibit. The affidavit and confidential exhibit were provided to me on the condition that it will only be used by my client and my firm for use in the proceedings. That affidavit and confidential exhibit are annexed to this affidavit and marked **Confidential Exhibit MRS-70**. A copy of the confidential exhibit will be served on the solicitors for the Applicant and the Second Respondent, but will not be filed for the reasons set out in paragraph 6 above.
10. On Sunday 31 March 2024, I received an email from the solicitor which annexed a supplementary affidavit. The supplementary affidavit is annexed to this affidavit and marked **Confidential Exhibit MRS-71**. A copy of the confidential exhibit will be served on the solicitors for the Applicant and the Second Respondent, but will not be filed for the reasons set out in paragraph 6 above.
11. After reviewing the contents of the confidential exhibits, I formed the view in conjunction with senior counsel that:
 - (a) it constitutes fresh evidence, in that the First Respondent was unaware of it at the time of the trial and it could not have been obtained with reasonable diligence; and
 - (b) it constitutes evidence which, if accepted, has the capacity to bear materially on the Applicant's credit in the proceeding and of supporting in a material way the First Respondent's submission that the Applicant's conduct in this proceeding constitutes an extreme abuse of process.

12. On Sunday 31 March 2024, I obtained instructions from the First Respondent to make an application to reopen its case in the proceeding.

Affirmed by the deponent
at Sydney
in New South Wales
on 31 March 2024
Before me:

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Signature of deponent



Signature of witness

Amelia Causley Todd
Solicitor

Level 14, 60 Martin Place, Sydney NSW 2000

An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law