

NOTICE OF FILING

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& ANOR
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

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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 named in the schedule
Respondents

Lisa Wilkinson
Cross-claimant

Network Ten Pty Limited ACN 052 515 250
Cross-respondent

Affidavit of: **Tasha Tanya Smithies**
Address: Network Ten Pty Ltd, 1 Saunders Street, Pyrmont NSW 2009
Occupation: Solicitor
Date: 25 January 2024

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I Tasha Tanya Smithies, of Network Ten Pty Ltd, 1 Saunders Street, Pyrmont NSW 2009,
swear:


Filed on behalf of (name & role of party) Network Ten Pty Limited, First Respondent and Cross Respondent
 Prepared by (name of person/lawyer) Andrew Gavin Stewart
 Law firm (if applicable) Baker McKenzie
 Tel 02 8922 5117 Fax 02 9225 1595
 Email andrew.stewart@bakermckenzie.com
 Address for service (include state and postcode) Level 46, Tower One, International Towers, 100 Barangaroo Avenue, Barangaroo, NSW 2000

[Version 3 form approved 02/05/2019]

1. I am a solicitor employed as Senior Litigation Counsel by Network Ten Pty Ltd (the First Respondent and Cross-Respondent) (**Network Ten**) and am authorised to make this affidavit on its behalf.
2. Unless otherwise stated, the facts deposed to in this affidavit are within my own knowledge. Where they are not within my own knowledge, they are based on material that I have obtained from Network Ten's business records, which I identify, or otherwise state the source of and I believe them to be true to the best of my knowledge and belief.
3. Exhibited before me at the time of swearing this affidavit is a bundle of documents marked "**Exhibit TTS-1**".
4. In my affidavit I have referred to a number of privileged communications. I have done so on instructions from Network Ten to properly address allegations and evidence that Ms Wilkinson has adduced in her affidavit evidence. To the extent that privilege is waived, my intention is only to waive privilege to the extent of what is set out in my affidavit, and not further.

Background and Professional History

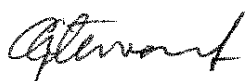
5. I was admitted to practice on 10 October 1997.
6. In 2002 I graduated with a Masters of Law from the University of Sydney.
7. From March 1997 to June 1999, I was employed at the firm of Holman Webb Lawyers as a solicitor within the commercial litigation team.
8. From June 1999 to August 2003, I was employed at the firm of Gilbert and Tobin as a solicitor within the media litigation team.
9. From September 2003 to January 2006, I was employed as a Corporate Counsel at Nine Entertainment Co Pty Ltd (**Nine Entertainment**).
10. From February 2006 to August 2007, I was employed as a Senior Corporate Counsel at Nine Entertainment.
11. From September 2007 to 29 January 2014, I was employed as the Senior Legal Counsel at Australian Associated Press.
12. From 3 February 2014 to date, I have been employed as the Senior Litigation Counsel at Network Ten, based in Sydney.



13. Since 1999 my duties have included providing pre-publication and broadcast advice to media companies, initially in my role at Gilbert and Tobin and then at Nine Entertainment Co, Australian Associated Press and, currently, at Network Ten.
14. At Network Ten, my current duties as Senior Litigation Counsel include:
 - (a) providing legal advice to Network Ten and its employees engaged in the production of television programs, including The Project; and
 - (b) managing litigation in which Network Ten and its related entities are involved.
15. I report to Stuart Thomas, the Vice President, Legal and Corporate Affairs for Network Ten Pty Ltd, with a number of other lawyers within the legal team at Network Ten who report to me, with the primary lawyer being Myles Farley, Senior Legal Counsel, who also provides pre-publication advice.
16. I am aware that in October 2021, Bruce Lehrmann (**Mr Lehrmann**) was charged in relation to an alleged sexual assault.
17. On or about 20 May 2022, I received an email from Erin Priestly, Senior Prosecutor at the Office of the Director of Public Prosecutions (**DPP**) asking for a suitable address for service for Ms Lisa Wilkinson (**Ms Wilkinson**) which confirmed that the DPP intended to call Ms Wilkinson as a witness in the prosecution of Mr Lehrmann. A copy of this email chain is exhibited at pages 1 to 5 of **Exhibit TTS-1**.

The Logies

18. On or around 6 June 2022, I became aware that an episode of The Project broadcast on 15 February 2021 (being an interview of Brittany Higgins conducted by Ms Wilkinson) (the **Program**) had been nominated for a Logie award in the category of Most Outstanding News Coverage or Public Affairs Report at the 62nd Annual TV week Logie Awards (the **Logies**). The Logies are an award ceremony for the Australian Television industry, organised by the TV Week publication and broadcast currently on free to air television by Nine Entertainment.
19. I became aware of this as Mr Farley informed me that he had been sent an email by Ms Wilkinson advising that she had been approached by a TV Week journalist through the Ten publicity team to respond to some questions regarding the nomination of the Program for the Logie and she wanted our advice in respect of the questions. Both Mr Farley and I were conscious that Network Ten needed to be careful in responding to the



questions as the trial of Mr Lehrmann was set down for hearing on 27 June 2022 and we wanted to review the content of Ms Wilkinson's answers.

20. I provided my views on the proposed answers to the TV Week Questions to Mr Farley by email. Exhibited at pages 6 to 16 of **Exhibit TTS-1** is the chain of emails between Mr Farley and I. In particular I note that we advised Mr McCarthy to include a statement at the beginning of the response relating to the upcoming trial of Mr Lehrmann, which was then set to commence on 27 June 2022.
21. Mr Farley provided advice as to the content of the responses from Ms Wilkinson to TV Week. Exhibited at page at pages 17 to 43 of **Exhibit TTS-1** is a chain of emails, the last two of which I was copied on, which sets out the communications between Ms Wilkinson, Mr Farley and Mr Anthony McCarthy, Senior Publicist for Network Ten who was the initial contact for the journalist from TV Week.
22. I note that in that chain of emails Mr Farley provided advice to Mr McCarthy on 6 June 2022 at 10:50am and recommended some changes. Mr Farley recommended those changes after consulting with me regarding contempt issues relating to the upcoming trial of Mr Lehrmann.
23. On 7 June 2022, I had a discussion with Ms Priestley regarding a number of matters, including the scheduling of a meeting between Ms Wilkinson and members of the Office of the DPP for 15 June 2022.
24. I first became aware that Ms Wilkinson was going to make a speech at the Logies (if the Program won the award) on 15 June 2022 after Mr Farley called me that morning regarding legal advice he was providing to Ms Wilkinson. Mr Farley and I discussed the advice, and Mr Farley responded to Ms Wilkinson that day at 1:49pm suggesting that she remove the line "it belongs to a woman who said "enough"". Exhibited at pages 44 to 46 of **Exhibit TTS-1** is this email chain.
25. On 15 June 2022 at 2:30pm, I attended a meeting, conducted on the Microsoft Teams Platform, which included the following people:
 - (a) Shane Drumgold QC, then Director of Public Prosecutions, ACT DPP;
 - (b) Skye Jerome, Junior Counsel;
 - (c) Ms Wilkinson; and
 - (d) Mitchell Greig, Prosecutor Associate, Office of the DPP, ACT.



26. During the 15 June 2022 meeting, Ms Wilkinson and I were in the Boardroom of the Network Ten office at 1 Saunders Street, Pyrmont NSW 2009.
27. I understood that the purpose of the meeting was for Mr Drumgold to explain to Ms Wilkinson the process of giving evidence, the likely topics of the evidence she was to give, and to provide her with guidelines for responding to questions while she was giving evidence, during the hearing of *R v Lehmann (No 3)* [2022] ACTSC 145.
28. During the meeting I took brief notes of the matters discussed which I converted into an email sent to Chris Bendall (Executive Producer at The Project), Kevin Whyte (Managing Director, Token Group), Angus Llewellyn (Producer at the 7PM Company), Ms Wilkinson and Mr Farley on 15 June 2022 at 10:26pm, a copy of which is exhibited at pages 47 to 49 of **Exhibit TTS-1**.
29. During the meeting on 15 June 2022, Ms Wilkinson had with her a draft of a speech she proposed to deliver at the Logies, should Network Ten be successful in receiving the award for the Program. At the end of the meeting, Ms Wilkinson and the DPP officers had a conversation to the following or substantially the following effect:

One of the DPP officers said: *"Do you have any questions"*

Ms Wilkinson asked a number of questions, and then said: *"I have been nominated for a Logie. I don't think I will win. However, I have prepared a speech just in case."*

Ms Wilkinson started to read from the speech that she had prepared, and reached the part of the speech which included that words *"belongs to a woman who said "enough"*.

Mr Drumgold then interrupted Ms Wilkinson reading the speech and said: *"I am not a speech writer. It's not our place to advise you, or approve a speech."*

30. Following this, I recall that I said to Ms Wilkinson words to the effect of:

"This isn't a matter they can deal with, we can chat about this later."

31. I did not take notes of this part of the meeting at this time, as it did not relate to the purpose of the meeting, was a brief interaction, and at the time I did not consider the giving of the speech a matter which Mr Drumgold or his office could consider. However, had Mr Drumgold given any indication that the speech should not be given I would have taken that into account.
32. My recollection of this part of the meeting is captured in an email that I sent to Ms Marlia Saunders, a partner at the firm Thomson Geer who is instructed by Network Ten,

copying Mr Thomas on 22 June 2022 at 10:57am. A copy of this email chain is exhibited at pages 50 to 51 of Exhibit TTS-1, and extracted below:

"My recollection of the relevant part of the conversation is set out below. I also note that they did not say that notes were being taken or that they would be provided to anyone including the defence. They did not indicate that the meeting was being recorded. We understood it to be a confidential and privileged meeting to prepare Lisa for giving evidence at the trial. I recall that words to this effect were stated at the beginning of the meeting.

Kind regards,

Tasha

Meeting Via Teams

Those present:

DPP lawyer Mitchel Greig – Prosecutor Associate Office of the DPP (I believe he was the note taker)

Skye Jerome – Junior Counsel (she appeared to jot down notes from time to time)

Shane Drumgold SC – Senior Counsel (not taking notes and conducted the meeting)

Lisa Wilkinson

Tasha Smithies

- *After taking Lisa through the evidence which took the majority of time of the meeting, Lisa was given the opportunity and asked various questions which included matters like whether she would be cross-examined about why Brittany came to her/the media, would she be asked about comments she had made on the audio recording about various people, these were each in turn answered.*
- *One of these questions was that she was nominated for a Logie, she didn't think she would win, but she had prepared a speech.*
- *I recall she started to read from the speech. It was from the paragraph relating to the use of the word 'enough' ie: 'And the truth is this honour belongs to Brittany. It belongs to a 26-year-old woman's unwavering courage, it belongs to a woman who said 'enough'".*
- *I recall Drumgold, stopped her and said it's not our place to advise you on that, we can't be seen to approve a speech or give you advice.*
- *I don't recall any mention of the role of the Court or a stay application.*
- *There was no suggestion that giving a speech was a bad idea or that Lisa should not give a speech just that they could not advise her or get involved.*
- *There was no warning that Lisa should not give a speech.*

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- *After this exchange, I said to Lisa (though it may not have been clearly heard via Teams by the DPP lawyer/Counsel) 'This isn't a matter they can deal with, we can chat about this later'.*
- *I did not consider the conversation with the Counsel constituted a warning of any kind, my view was that it was up to N10 and Lisa (with advice from the Network both legal and editorial) as to what she should or should not say in any speech.*
- *Had we been given a warning that Lisa should not speak at the Logies (assuming she won) I would have reported this internally, discussed it with Lisa and a different approach would have been taken.*
- *After the meeting, I talked about the speech with Lisa and we changed a part of it. We discussed the fact she was a witness and that she should not refer to the trial at all, she should not touch on her evidence. It should be expressed from Lisa's (not Britany's) [sic] perspective. Lisa read me the speech, we changed the reference to specific date in January 2021 in the first paragraph to make it more geenral [sic] and we also discussed the use of the word 'enough' which I felt was fine in the context in which it appeared in the speech.*
- *By way of background- we had considered previously and removed the word 'enough' in answers to questions provided by TV Week as in that context I had been concerned about its use. We also didn't answer all questions from TV week as we felt some related to the trial.*

It may be helpful to add, that I thought very little of what was said on this topic that I didn't refer to it in my update report internally to relevant N10 people. It was not the purpose or the substantive discussion of the meeting. I understood that the DPP could not advise Lisa or N10 on the content of a Logies speech and that this was a matter for N10."

33. To the best of my recollection, during the meeting there was no other discussion about the speech Ms Wilkinson had prepared, or the potential impact of the same. I do not recall any discussion or comments by Mr Drumgold or anyone in his office regarding the potential publicity or impact upon the then-impending trial which may have arisen from the acceptance speech by Ms Wilkinson. I do not recall that Mr Drumgold gave any kind of warning in relation to Ms Wilkinson's speech.
34. Immediately after/following the Teams meeting referred to in paragraph 25 above Ms Wilkinson showed me her draft Logies speech that she had on an iPad. I read through the speech and then discussed it with Ms Wilkinson. During that discussion I advised that the reference to the January date be removed from the speech. Ms Wilkinson amended the speech on her iPad. We also discussed the part of the draft which states "[i]t belongs to a 25-year-old woman's unwavering courage". While I was aware that it was not the DPP's role to give legal advice, I said that I was more comfortable with that part of the speech as that was the part of the speech that Ms Wilkinson read to Mr Drumgold during the meeting with the DPP earlier that day, who did not express any

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concerns. While I did not regard it as Mr Drumgold's responsibility to legal the speech, had he provided a warning or expressed concern about the giving of the speech that would have been a very significant matter that I would have taken into account. I did not take Ms Wilkinson through all my reasons why I advised the draft speech was "okay". I said to Ms Wilkinson that she should send Mr Farley and me a copy of the speech to look at if she makes any further changes. I did not receive a copy of the speech as amended from Ms Wilkinson.

35. In paragraph 8(a) of Ms Wilkinson's affidavit dated 16 January 2024 (**Ms Wilkinson's Affidavit**) she said that I reiterated that "*as it was proposed that [Ms Wilkinson] be a witness in the criminal proceedings R v Lehrmann, [she] should not make any reference in the speech to the trial or the evidence [she] might give.*" I do not recall expressing this in that way. I recall stating in more general terms that Ms Wilkinson should not make any reference to the substance of the Project story or the trial, Mr Lehrmann or the evidence she might give.
36. In relation to Paragraph 8(d), I do not recall Ms Wilkinson asking me specifically about the use of the word "enough", but we did discuss that section of the draft speech. I do recall expressing concern to Mr Farley regarding the use of the word "enough" as referred to in paragraph 24 above.
37. My reasons for the advice I gave to Ms Wilkinson are set out below:
- (a) The speech was sufficiently vague in that it did not refer directly to Mr Lehrmann, the trial, or the Program.
 - (b) By further removing the reference to the January date, it was even more general as the speech did not temporally locate the matter.
 - (c) I was comfortable that the speech was expressed as Ms Wilkinson's experience and observation regarding her dealings with Ms Higgins.
 - (d) I did not consider that the speech was saying anything additional to, nor did it deviate from what had already been said and what was being said at this time regarding the trial in the public domain, or what Ms Wilkinson had already said in the public domain. Ms Wilkinson's views on the matter and her support of Ms Higgins were
already well known and widely reported.
 - (e) Even though I understood that it was not the DPP's role to give legal advice, the fact that Mr Drumgold did not object to any part of the speech read by Ms Wilkinson in the DPP meeting (in particular the line concerning "unwavering courage") was a

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significant factor that influenced my advice that the speech was okay for Ms Wilkinson to give.

(f) Given the above and the extensive reporting in the media over a significant period and at that time, I considered that as a matter of practical reality, the giving of the speech in the form I had reviewed, would not provide any new information to viewers of which they would not have already been aware, including as to Ms Wilkinson's involvement in the interview and her widely known and publicised support of Ms Higgins, and therefore would not be likely to impact the trial.

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(g) I reviewed the advice from the perspective that contempt is a common law concept which involves a lot of grey area and an element of judgement unlike a statutory prohibition on publishing specific information, such as the identify of a sexual assault victim in certain circumstances. Given the above factors, I approved the Logies Speech.

38. I attended the Logies on 19 June 2023. At the pre-Logies drinks I spoke to Ms Thornton (Head of Popular Factual at Network Ten) who had a copy of Ms Wilkinson's speech. Ms Thornton asked me if I had seen the speech. I said I had seen a version of it, and asked if Ms Thornton wanted me to look at it to check it is the same. Ms Thornton said yes. I looked at the speech and nothing stood out as significantly different to the speech Ms Wilkinson showed me on her iPad on 15 June 2022.
39. I was not aware that the footage used during the Logies to show the Program in the nominations would be the segment of the Program containing Fiona Brown. I had no control over the selection of that footage, and I did not have an opportunity to prevent Ms Wilkinson from reading her speech after the Program was awarded the Logie.

Stay Judgment

40. On 20 June 2022 at 4:50pm, I received an email from the Associate to Chief Justice McCallum of the ACT Supreme Court, which stated:

"As you may be aware the trial of Bruce Lehrmann is due to start next Monday. The Court this afternoon commenced hearing an application for a stay of the proceedings on the basis of publications following the award to Ms Wilkinson last night. That application will be further heard tomorrow. Any statement concerning the trial of the accused or the allegations made by Ms Higgins or commentary about the fact that she came forward with them, and what should be the response to her allegations, is likely to jeopardise the commencement of the trial next Monday. Her Honour would be grateful if you would refrain from publishing such material tonight."

A copy of this email is exhibited at pages 52 to 53 of Exhibit TTS-1.




41. I was concerned when I received this email, and my primary thought that we should do everything we could to comply with her Honour's request. After receiving the Associate's email I instructed Ms Wilkinson and the Project team, Tamara Simoneau (Head of Lifestyle Programs), Wade Shipard (Social & Digital Editor – 10 News First Australia), Rashell Habib (Head of Digital News & Strategy 10 News First), Martin White (Head of Broadcast News at Network 10), Jarrod Koh (Chief Of Staff (News) at Network Ten) and Matthew Johnson (Deputy Social Media at Network Ten) to remove all social media posts of Ms Wilkinson regarding the Logies Speech and to ensure that no references are made to it on any Network Ten programs. I gave the instructions to those relevant people as this was standard risk mitigation procedure. Copies of emails demonstrating these instructions are exhibited at pages **54 to 63** of **Exhibit TTS-1**.
42. The email from the Associate was the first time that I became aware of the stay application. At this time, I did not consider sending anyone to represent Network Ten or Ms Wilkinson at the hearing of the stay application on 21 June 2022 as we were not parties to the proceeding, and had no standing to appear.
43. The Network Ten representative Ms Wilkinson refers to in her affidavit at paragraph 16 was Alice Hogg, a Network Ten journalist. I did not instruct Ms Hogg to attend the hearing. Ms Hogg attended the hearing in her capacity as a journalist.
44. I became aware of the fact that McCallum CJ asked the ACT prosecutor whether he wanted to seek injunctions against Ms Wilkinson and The Project to prevent further commentary over the Lehrmann/Higgins case in the afternoon of 21 June 2022 via Ms Saunders who informed me via email. A copy of this email is exhibited at pages **64 to 65** of **Exhibit TTS-1**.
45. On 21 June 2022 at approximately 2:00pm, McCallum CJ delivered a judgment, *R v Lehrmann (No 3) (2022) 369 FLR 458 (Stay Judgment)*, in which the trial of *R v Lehrmann* was vacated and a temporary stay was granted.
46. I raised Ms Saunders' email with Mr Thomas and suggested we use external counsel, who agreed it would be a good idea. I thought that it was a good idea to use external counsel as it was clear that the matter was escalating and we needed to manage the risk of possible injunctions. Ms Wilkinson was also clearly upset about the situation, so we wanted to do everything we could to ensure the best outcome for her. I then sent Ms Saunders my file note of the 15 June 2022 meeting with the DPP by email at 4:54pm. A copy of this email is exhibited at pages **66 to 68** of **Exhibit TTS-1**.




47. Given the negative statements made in the judgment in relation to Network Ten and Ms Wilkinson, the publicity team prepared a draft statement for Network Ten to release. On 21 June 2022 I corresponded with Ms Thornton, Nick Fordham (CEO at the Fordham Company, Ms Wilkinson's agency), Mr Bendall and Ms Wilkinson in relation to that public statement to be made by Network Ten in response to the Stay Judgment. A copy of an email chain which discusses the statement is exhibited at pages **69 to 71** of **Exhibit TTS-1**.

48. I am aware that on or about 21 June 2022, Network Ten released the following public statement in the form set out below in response to media requests and to our news room for inclusion in any Network Ten story:

Network 10 acknowledges the ruling by Chief Justice McCallum and fully supports Lisa Wilkinson. Both Network 10 and Lisa Wilkinson take their legal obligations very seriously, including in the preparation and delivery of her speech given at the Logies event. In light of the continuing proceedings, it would be inappropriate to comment further at this time.

Copies of this public statement as reported by the Daily Mail Australia and Mediaweek Australia are exhibited at pages **72 to 81** of **Exhibit TTS-1**.

49. The Stay Judgment was only released at 6:10pm by the Senior Associate to McCallum CJ. I received a copy of the Stay Judgment at 6:13pm from Martin White (Head of Broadcast News at Network Ten). A copy of this email chain is exhibited at pages **82 to 93** of **Exhibit TTS-1**.

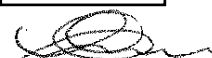
50. I do not recall the discussion between me and Ms Wilkinson that evening referred to at paragraphs 21 to 23 of Ms Wilkinson's Affidavit.

51. On 21 June 2022 at 7.13pm, I sent Ms Wilkinson a copy of the Stay Judgment. A copy of this email chain is exhibited at pages **94 to 99** of **Exhibit TTS-1**.

52. On 21 June 2022 at 7:22pm I emailed Ms Saunders regarding how the defence had obtained notes of the conversation Ms Wilkinson had with the DPP. A copy of this email is exhibited at pages **100 to 102** of **Exhibit TTS-1**.

53. On 21 June 2022 at 9:32pm Ms Saunders emailed me with an update on her conversation with Mr Drumgold that evening. A copy of that email is exhibited at page **103** of **Exhibit TTS-1**.

54. On 21 June 2022 in the late afternoon I, I considered that Network Ten should retain counsel. Mr Thomas and I thought that Dr Matt Collins KC (QC at the time) would be a **s 136 limitation** good barrister to use in relation to the possible contempt charges, as he is one of the

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only senior defamation silks with experience in contempt. I was aware that Dr Collins had worked on the Cardinal George Pell AC case which involved substantive contempt issues with a number of media organisations. I also thought it was advantageous that Dr Collins had appeared before McCallum CJ often when she ran the defamation list in the Supreme Court of New South Wales. Because of this and his general reputation we considered that he was the best choice of counsel in the circumstances. I instructed Ms Saunders to retain Dr Collins in the evening of 21 June 2022.

55. On 22 June 2022 at 5:52am, Beverley McGarvey (Executive Vice President and Chief Content Officer & Head of Paramount+ at Network Ten) sent an email to Mr Thomas, Catherine Donovan (VP of Publicity & Communications at Network Ten) and Ms Thornton and me with a link to an article from *The Australian* with details about how Ms Wilkinson was warned over the Logies Speech. I responded to her email at 6.59am with details of the Stay Judgment. A copy of this email chain is exhibited at pages 104 to 105 of **Exhibit TTS-1**. That prompted Ms McGarvey to organise a meeting. At 7:30am on 22 June 2022 I attended a Microsoft Teams meeting with Ms McGarvey, Mr Thomas, Ms Donovan and Ms Thornton. The purpose of the meeting was to discuss PR concerning the Logies Speech. A copy of the meeting invitation is exhibited at page 106 of **Exhibit TTS-1**.


56. Ms Saunders then called me during the morning of 22 June 2022 to discuss Dr Collins' appearance on the Sunrise program, and that he had asked that Network Ten and Ms Wilkinson consider the matter prior to instructing him. I had not watched the program, however Ms Saunders read Dr Collins' comments regarding Ms Wilkinson to me. I called Mr Thomas and we discussed Dr Collins' comments and whether he should represent Ms Wilkinson.

We agreed that it was not an issue because he was expressing views in his capacity as President of the Australian Bar Association and we did not consider his comments as representing a fully informed personal view. We also re-iterated our views that given Dr Collins contempt experience, he remained the best choice of Counsel in the circumstances.

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57. We engaged Dr Collins to act for Network Ten and Ms Wilkinson that morning (22 June 2022).

58. On 22 June 2022 at 10:51am Ms Thornton sent Ms Wilkinson an email, copying me, providing my notes of the relevant part of the conversation with Mr Drumgold on 15 June 2022, and confirming that those notes had also been sent to the barrister (being Dr Collins). Ms Thornton also noted to Ms Wilkinson that I was going to Canberra that evening to attend the hearing.

59. I discussed the briefing of Dr Collins with Ms Thornton during the morning of 22 June 2022 who I understood was acting as a conduit to Ms Wilkinson. Ms Thornton raised with me Ms Wilkinson's concern around briefing Dr Collins given his statement on the Sunrise program. I reiterated to Ms Thornton the reasons why Mr Thomas and I thought that Dr Collins was a good choice for Ms Wilkinson. I assume that Ms Thornton passed on this discussion to Ms Wilkinson.
60. On 22 June 2022 at 2:30pm I attended a meeting with Ms Wilkinson, Mr FitzSimons, Dr Collins, Ms Saunders and Ms Thornton for the purpose of discussing the Stay Judgment and potential fallout from Ms Wilkinson's speech at the Logies. I had no reason to believe that Ms Wilkinson had any concerns with Dr Collins acting in the matter.
61. At this time I was very concerned that the application had been made to the Court to vacate the hearing based on the Logies Speech and the possibility that Ms Wilkinson may be charged with contempt. Dr Collins expressed the following concerns:
- (a) there was a very real risk that Lisa might be charged with contempt;
 - (b) given the Stay Judgment, McCallum CJ was very upset and any appearance before her Honour could escalate the matter including a contempt referral made in open Court by her Honour;
 - (c) attendance at Court by Lisa would likely significantly increase the media attention.
62. Dr Collins' advice focused on the best course of action to minimise the above concerns and risks and prevent the matter from escalating. Given Ms Saunders' previous discussions with the DPP, Dr Collins recommended Ms Saunders engage in writing with the DPP to see whether he would agree to make a statement to the Court. Dr Collins also recommended that Ms Saunders draft a letter be sent to the Judge, to be provided to Mr Drumgold, which sought to inform the Judge that, contrary to the findings in the Stay Judgment and the evidence tendered in the stay application, Mr Drumgold had not given any warning to Ms Wilkinson or me during the meeting on 15 June 2022. It could include Network Ten and Ms Wilkinson's preparedness to have Senior Counsel appear before her Honour if she wished to have the contents of the letter relayed personally.
63. Ms Wilkinson actively participated in the call and asked questions of Dr Collins. Dr Collins made it clear in the call that Ms Wilkinson and Network Ten had no standing in the proceedings, and it would be a bad idea to turn up to the Court because it would potentially inflame the position with McCallum CJ. Ms Wilkinson was not visibly upset during the call, but was quite calm and in control. I recall that when Mr FitzSimons would



interject, Ms Wilkinson would say words to the effect of "no, we need to listen to Dr Collins". At the end of the meeting, I recall that both Ms Wilkinson and Mr FitzSimons thanked Dr Collins for hearing them, his empathy towards them and for his carefully thought through advice.

64. It appeared that Ms Wilkinson accepted this advice, and at no point from this time onwards did she request that she be represented at the hearing despite this advice or raise any concerns as to the advice that Dr Collins was giving.

65. I did not attend the hearing in Canberra as planned, based on Dr Collins' advice.

66. In Ms Wilkinson's Affidavit at paragraph 35 she refers to a conversation that I had with Ms Thornton. I do not recall having a conversation with Ms Thornton where I said that Ms Wilkinson should "stay away and not attend Court". I recall the question of whether Ms Wilkinson should be in Court or not was discussed in the meeting at 2:30pm on 22 June 2022, where the decision was made that no one should attend Court following Dr Collins' advice.

67. I note that at paragraph 37 of Ms Wilkinson's Affidavit she states:

"no decision was made at [the 2:30pm meeting] to correct the public record or address the factual inaccuracies in the growing media commentary".

This is incorrect and ignores the fact that we made the decision in that meeting to send the letter to Mr Drumgold, which we hoped that he would tender to the Court and therefore be part of the public record, being the Proceedings before the Court. This, in my view, reflected the advice of Dr Collins and was the best way to "correct the public record". Also, it was a better outcome for the letter to be tendered as it would involve Mr Drumgold correcting his error. It also kept Ms Wilkinson away from Court which addressed Dr Collins' concern around further negative publicity. At this stage, we considered that Network Ten was doing everything it could for Ms Wilkinson while at the same time managing the risk that Ms Wilkinson would be prosecuted for contempt. I also do not recall any express request from Ms Wilkinson to make a public statement—the focus of the meeting was talking about the letter.

68. Ms Wilkinson was sent a draft of the letter at 3:23pm on 22 June 2022 [REDACTED]
[REDACTED]
[REDACTED] A copy of this email chain is exhibited at pages 107 to 109 of Exhibit TTS-1. The letter said:



"We did not intend at any time to interfere with the trial of Mr Lehrmann. Neither Ms Wilkinson nor the Network Ten Senior Legal Counsel present at the conference with the DPP on 15 June 2022 understood that they had been cautioned that Ms Wilkinson giving an acceptance speech at the Logie Awards could result in an application being made to the Court to vacate the trial date. Had they understood that a specific warning had been given, Ms Wilkinson would not have given the speech."

69. I forwarded the letter that Ms Saunders was going to send to Mr Drumgold on 22 June 2022 at 4:23pm to Ms Wilkinson. A copy of this email is exhibited at pages **110** to **111** of **Exhibit TTS-1**. Ms Saunders sent the letter to Mr Drumgold at 4:30pm. Copies of this correspondence is exhibited at pages **112** to **113** of **Exhibit TTS-1**.

70. In paragraph 40 of Ms Wilkinson's Affidavit she states that she did not receive any further advice from Dr Collins about "what steps [she] could take to have TEN correct the public or the Court record, or to respond legally to the inaccuracies being reported". Dr Collins' advice on the 2:30pm call was clear, being that she should stay away from Court, and not talk about the trial further. Other than sending the letter to Mr Drumgold, there were no further legal steps that Dr Collins advised or we considered could be taken. Ms Wilkinson did not ask for any further meetings with Dr Collins.

71. At 4:36pm on 22 June 2022, Ms Saunders emailed me and Mr Thomas stating:

"As just discussed with Tasha, I spoke to the DPP Shane Drumgold this afternoon to let him know we would be sending the letter directly to the Court and copying the parties.

He confirmed that he will tender the letter formally in Court tomorrow morning.

He said unprompted that he thinks the media has misreported the evidence that was tendered by the defence in the application yesterday. He said: "The media have reported that I told her [Lisa] not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay."

He said he feels the need to correct reports that there was a positive direction not to give a speech. He feels Lisa has been poorly treated. He said he will give some thought as to how he can deal with it tomorrow and said he might say something in open court.

Separately, he noted that he is also seeking voluntary undertakings from other media, including ARN.

I'll let you know if we hear anything back from the Court this evening."

A copy of this email is exhibited at page **114** of **Exhibit TTS-1**.




72. I implemented the direction pursuant to the draft letter at 5:21pm that day, using the wording from the letter. In an email to Martin White (Head of Broadcast News at Network TEN), Ms Simoneau, Mr Bendall, Karen Bunting (Head of Production at the 7PM Company), Vanessa Arden Wood (Head of Content and Commercial Partnerships, Digital at Network Ten), Mr Johnson, Kieran Simpson (Head of Digital at the Project) and Mr Shipard:

"Could you please pass on to your teams the following important reminders:

- *All reporting on the trial of Bruce Lehrmann, Brittany Higgins and related applications is to be strictly limited to general news reporting, such as the reporting of the proceedings as they are conducted in open Court until the conclusion of the trial.*
- *Please refrain from commenting on, liking or sharing on social media platforms posts about the trial, related applications, Bruce Lehrmann and Brittany Higgins, in particular opinion pieces.*
- *All stories on all platforms should be run past legal at [REDACTED]*

If you have any queries, please call legal clearance on [REDACTED] or me on the numbers below."

This email is set out at page **116** of the email chain exhibited at pages **115 to 116** of **Exhibit TTS-1**.

73. In the evening of 22 June 2022, I had a telephone call with Ms Wilkinson, Mr Peter FitzSimons and a lawyer introduced as "Jim" (I have subsequently become aware that Mr FitzSimons has a brother who is a lawyer and I believe that it was that brother who attended the meeting and was referred to as "Jim"). I recall that one of the matters raised by Ms Wilkinson was the decision to engage Dr Collins. I recorded the substance of that conversation in an email I sent to Ms Donovan at 7.20am on 23 June 2022, being the following:

"Lisa did call me last night with Peter and their lawyer friend 'Jim' and did raise this, I spent some time going through again why Matt Collins was the best person to engage and having had a long call with him yesterday afternoon, they were comfortable. I also took them through what this mornings [sic] Court directions would involve and how it was likely to unfold bearing in mind we couldn't control the Judge or how it is framed by the DPP, though we have done what we can by speaking to the DPP. She would like to chat after Court today."

A copy of this email is exhibited at page **117** of **Exhibit TTS-1**.

74. Ms Wilkinson was not represented in Court on 23 June 2022, for the same reasons why s 136 limitation she was not represented on 20 June 2022 or 21 June 2022, being that she did not have

s 136 limitation

standing, and because Dr Collins' advice was to stay away from Court. Ms Wilkinson raised no issue with me regarding this approach. Network Ten was in the same position.

75. I was aware that Ms Saunders was in contact with Mr Drumgold on 21 June 2022, 22 June 2022 and 23 June 2022 and had conveyed Network Ten's and Ms Wilkinson's positions. According to the advice of Dr Collins, this was considered the best approach at the time.

Network Ten public statement

76. On 23 June 2022 I worked with Ms Donovan, Mr Fordham, Mr FitzSimons, Mr Bendall, Ms Saunders and Ms Wilkinson in preparing a statement for Network Ten to provide in response to press queries regarding Ms Wilkinson. The primary aim of releasing the statement was to support Ms Wilkinson and attempt to correct the record without risking contempt charges. Copies of this email chain is exhibited at pages 118 to 121 of **Exhibit TTS-1**.

s 136 limitation

77. On 23 June 2022 at 5:40pm, Mr FitzSimons sent an email to Ms Donovan, Mr Fordham, Mr Bendall and myself, which read:

"And allow me to say in turn, how much we appreciated YOU, Sarah, and everyone.

This was, what we call in the trade, a shower of shit, but we have come a long way forward in 48 hours."

A copy of this email as part of an email chain is exhibited at page 122 of **Exhibit TTS-1**.

78. On 23 June 2022 at 5:48pm, Mr Fordham sent an email to Ms Donovan, Mr FitzSimons, Mr Bendall and myself, which read:

"Thank you team. We will get through this.

Appreciate everyone's support and efforts."

A copy of this email is exhibited at pages 122 of **Exhibit TTS-1**.

79. On 23 June 2022 at 6:09pm, I sent an email to Ms Donovan, Mr Fordham, Mr FitzSimons, Mr Bendall and Ms Wilkinson, which read:

"Thanks Sarah, Cat, Chris, Nick, Peter and especially to Lisa, your courage under such constant pressure and desire to honour Brittany is admirable.

Leon Switzer, Brittany's lawyer reached out to our external lawyer to express her support for you, she is in no way upset with Lisa – on their request, we also provided a copy of the letter handed up in Court to her lawyer."

A copy of this email as part of an email chain is exhibited at pages 123 to 124 of Exhibit TTS-1.

80. On 23 June 2022 at 9:00pm, Ms Wilkinson sent an email to Ms Donovan, Mr Fordham, Mr FitzSimons, Mr Bendall and myself, which read:

"Thanks so much Tasha. I in turn have to thank all of you for your ongoing and absolutely unwavering support since Sunday. I am trying really hard to hold it together, but not always succeeding.

I have just had a great meeting with Scott though, from the security team, and I feel so much better having all of his assistance while I remain every pap's number one target right now.

With enormous thanks,

Lisa"

A copy of this email as part of an email chain is exhibited at pages 123 to 124 of Exhibit TTS-1.

81. I took from these emails above at paragraphs 77 to 80 that Ms Wilkinson, Mr FitzSimons and Mr Fordham were happy with the approach being taken with Mr Drumgold so far.

Articles about Ms Wilkinson

82. On 4 July 2022 at 3:54pm, Ms Wilkinson sent an email to Ms Thornton, Mr Fordham and myself with the subject "Defamatory item in today's Australian", which contained a screenshot of an article in The Australian which stated that Ms Wilkinson "made comments about Higgins' allegations" and that Ms Wilkinson had "completely obliterated the line between allegation and guilt" in relation to the Logies Speech. Ms Higgins said that "this defamatory rubbish has to stop". A copy of this email is exhibited at pages 125 to 126 of Exhibit TTS-1.

83. On 5 July 2022 at 7:35am, I replied to Ms Wilkinson agreeing that the articles contained inaccuracies and were potentially defamatory. I gave Ms Wilkinson advice that it would not be a good idea to send a legal letter to the publications as it would generate more publicity which could pose a contempt risk. It also went against the assurances provided to the Court that no further comment on the matter would be made. I gave this advice for

s 136 limitation

the same reasons as in paragraph 76 above, being to balance the need to support Ms

Wilkinson and our obligations to the Court. A copy of this email is exhibited at pages 127 to 129 of Exhibit TTS-1.

84. On 5 July 2022 at 8:04am, Ms Wilkinson replied to me thanking me for my "*careful and speedy consideration*". Ms Wilkinson indicated she understood the advice. A copy of this email is exhibited at pages **130 to 132** of **Exhibit TTS-1**.

Assisting Ms Wilkinson prepare to give evidence and respond to subpoenas

85. From July to October 2022 I worked with Mr Farley and Ms Saunders to respond to subpoenas to Network Ten and Ms Wilkinson and to prepare Ms Wilkinson to give evidence at the trial. This included:
- (a) assisting Ms Wilkinson with complying with a subpoena to produce documents issued by Mr Lehmann's lawyers;
 - (b) Briefing a criminal barrister Louise Jardim, paid for Network Ten. We decided it would be a good idea to brief a criminal barrister to help Ms Wilkinson prepare to give evidence at the trial. Ms Wilkinson had only attended one conference with Mr Drumgold to prepare for the trial, which was in my view insufficient. Ms Saunders had recommended Ms Jardim to me, whom we later decided to brief.
 - (c) Organising three preparation meetings with Ms Jardim on 30 September 2022 and 5 October 2022 so that Ms Wilkinson was comfortable to give evidence. The meetings were attended by Ms Jardim, Ms Wilkinson, Ms Saunders, and Mr Fordham and me. An email to Ms Wilkinson summarising these meetings is exhibited at page **133** of **Exhibit TTS-1** (noting that the ultimate dates of the meetings changed, and the third meeting did not go ahead as Ms Wilkinson was no longer required for cross-examination). Details of the two meetings with Ms Jardim are below:
 - i. On 30 September 2022, I attended a conference with Ms Jardim, Ms Wilkinson, Ms Saunders, Mr O'Beirne (Lawyer at Thomson Geer) and Mr Fordham at Thomson Geer's office. The purpose of this meeting was to assist in preparing Ms Wilkinson to give evidence at the criminal trial. This included reviewing materials relating to the Program, Ms Wilkinson's record of interview with the police, the likely areas Ms Wilkinson would be examined and cross-examined on, including in particular her communications with Ms Higgins and Mr Shiraz and the process involved in giving evidence in a criminal trial.
 - ii. On 5 October 2022, I attended a second conference with Ms Jardim, Ms Wilkinson, Ms Saunders, Mr O'Beirne and Mr Fordham at Thomson Geer's




office. This meeting was focused on preparing Ms Wilkinson for cross-examination.

- (d) Organising and attending an internal strategy meeting on 7 October 2022. The meeting was attended by Ms Wilkinson, Mr Fordham, Ms Saunders, Mr Bendall, Ms Donovan and Ms Simoneau. An email I sent setting out an agenda for this conference is exhibited at page **134** of **Exhibit TTS-1**.
- (e) Organising and attending daily calls to discuss the criminal trial and PR. The calls involved Network Ten's publicity team, legal team, and the Project team as needed.
- (f) Instructing Mr Farley (who usually resides in Melbourne) to attend each day for most of the trial in Canberra to take notes and prepare daily summaries. Between 4 and 14 October 2022, I instructed Mr Farley to provide daily summaries of *R v Lehmann (No 3)* [2022] ACTSC 145. I then provided those summaries by email to Ms Saunders, Mr Bendall, Mr Fordham, Ms Donovan and Ms Simoneau. We provided the summaries to Ms Wilkinson from 11 October 2022, as that was the date after which she was no longer required for cross-examination.
86. Correspondence showing those efforts are set out at paragraphs X to X below.
87. On 31 July 2022 at 12:33pm, Mr Farley sent an email to Ms Wilkinson, Mr Bendall and myself which updated Ms Wilkinson on when Ms Wilkinson will be required for evidence, provided an update on the subpoenas, and offered a time for a call to discuss trial preparation. A copy of this email is exhibited at page 136 of the email chain at pages **135 to 137**.
88. On 31 July 2022 at 2:06pm, Ms Wilkinson responded to Mr Farley by email requesting a strategy call when she was back from her three week overseas holiday. Ms Wilkinson also asked for Ms Saunders' thoughts on whether it would be wise to approach McCallum CJ before the trial commenced to clarify the detail of the 15 June 2022 meeting with Mr Drumgold. A copy of this email is exhibited at page 136 of the email chain at pages **135 to 137** of **Exhibit TTS-1**.
89. On 1 August 2022 at 10:47am, I responded to Ms Wilkinson stating that we were looking to engage Ms Jardim to assist in answering her questions around giving evidence, and assist in preparing her to give evidence. A copy of this email is exhibited as part of the email chain at pages **135 to 137** of **Exhibit TTS-1**.



90. On 26 August at 9:29am, Ms Wilkinson responded to me by email confirming she was "very happy" to have Ms Jardim assist her. A copy of this email is exhibited as part of the email chain at pagepages **135 to 137** of **Exhibit TTS-1**.
91. On 26 August 2022 at 4:53pm, I forwarded an email from Ms Saunders to Ms Wilkinson, copying Ms Thornton and Mr Farley, regarding a meeting that Ms Saunders had with Ms Jardim about preparing Ms Wilkinson to give evidence. This email is set out at page **139** of the email chain exhibited at pages **138 to 140** of **Exhibit TTS-1**.
92. On 1 September 2022 at 11:16am, Ms Wilkinson replied to me by email copying Ms Thornton and Mr Farley, setting out her availability for the meetings with Ms Jardim. A copy of this email is exhibited in the email chain at page **138 to 140** of **Exhibit TTS-1**.
93. On 2 September 2022 at 10:37am, I sent an email to Ms Wilkinson, Sharyn Hart (Talent Manager at The Project) and Ms Thornton, outlining the plan for various meetings to prepare Ms Wilkinson to give evidence. A copy of this email is exhibited at pages **141 to 143** of **Exhibit TTS-1**.
94. On 2 September 2022 at 11:37am, Ms Wilkinson replied to me by email confirming she was fine with all of the meeting times. A copy of this email is exhibited at pages **144 to 147** of **Exhibit TTS-1**.
95. On 18 September 2022 at 2:28am, Ms Wilkinson sent me an email attaching a tweet from the Twitter page "Just saying" (@kangaroos991). In that email, Ms Wilkinson asked, "*Love your thoughts on this and whether it involves anything we have offered up?*". A copy of this email is exhibited at page **148** of **Exhibit TTS-1**.
96. On 18 September 2022 at 4:36pm responded to Ms Wilkinson's email saying that I did not think the tweet related to anything we had supplied. A copy of this email is exhibited at pages **148** of **Exhibit TTS-1**.
97. On 29 September 2022 at 7:18am, I sent an email to Ms Wilkinson confirming the attendees for the meetings organised for her. I also informed Ms Wilkinson about a conversation that I had with Ms Saunders about whether the 15 June 2022 meeting with Mr Drumgold was privileged, and that the privilege in the meeting belonged to the DPP. A copy of this email is exhibited on page 149 as part of an email chain at pages **149 to 150** of **Exhibit TTS-1**.
98. On 29 September 2022 at 10:20am, Ms Wilkinson responded asking whether there was a transcript record of the meeting with the DPP. A copy of this email is exhibited at pages **149 to 150** of **Exhibit TTS-1**.



99. On 29 September 2022 at 1:27pm I responded to Ms Wilkinson by email confirming that there was no recording of the meeting with the DPP. A copy of this email is exhibited at pages **149 to 150** of **Exhibit TTS-1**.
100. Around this time Ms Saunders requested that the DPP make an application for two support people (being Ms Saunders and me) to be present during Ms Wilkinson's evidence. I then arranged flights and accommodation in Canberra to attend Court during Ms Wilkinson's evidence and to be a support to her.
101. On 11 October 2022, I was informed by Ms Saunders that the DPP had advised that Ms Wilkinson was no longer required for cross-examination. Although Ms Wilkinson was no longer required for cross-examination, Mr Farley remained in Canberra for a longer period so that we could continue to monitor the trial and provide Ms Wilkinson with updates as there was no live stream of the proceedings available.
102. I called Ms Wilkinson on 11 October 2022 after she was informed that she was no longer required to give evidence. I recall Ms Wilkinson expressing disappointment in no longer giving evidence.
103. On 13 October 2022 at 4:59pm, I sent an email to Ms Wilkinson, Mr Bendall, Mr Fordham, Ms Simoneau, Mr Thornton, Ms Donovan, Ms Thornton and Mr Farley providing the witness list for the trial as circulated by the Court. A copy of this email is exhibited at page 152 as part of the email chain at pages **151 to 153** of **Exhibit TTS-1**.
104. On 14 October 2022 at 9:36am, Ms Wilkinson responded to my email asking us to confirm that this meant that no journalist could obtain the full six hour audio tape of the pre-interview with Ms Higgins and David Sharaz (Ms Higgins' partner). A copy of this email is exhibited at page 152 of the email chain at pages at pages **151 to 153** of **Exhibit TTS-1**.
105. On 14 October 2022 at 1:04pm, I responded to Ms Wilkinson by email stating that the audio tape was not tendered as evidence which means no one can obtain it, however, it was still possible that relevant parts that other witnesses are asked about or all of it could be tendered by the DPP. A copy of this email is exhibited at page 151 of the email chain at pages **151 to 153** of **Exhibit TTS-1**.

Further attempts to correct the record

106. Towards the end of the trial, Ms Wilkinson started contacting me about media strategy. I also became aware that Ms Wilkinson was still concerned about correcting the record in relation to the 15 June 2022 meeting with Mr Drumgold. On 17 October 2022, Ms



Wilkinson emailed me at 10:23am requesting an urgent meeting to organise a plan to address this. A copy of this email is exhibited at page 151 of the email chain at pages **151 to 153 of Exhibit TTS-1.**

107. I responded to Ms Wilkinson on 17 October 2022 at 1:10pm, stating that it would be a good idea to have PR responses ready for a guilty and not-guilty verdict. I also said that it was highly unlikely that Mr Drumgold will correct the record in Court or by other means given the criminal trial was ongoing. A copy of this email is exhibited at page 155 of the email chain at pages **154 to 157 of Exhibit TTS-1.**
108. On 17 October 2022 at 2:43pm, Ms Wilkinson responded to me by email saying that she would still like to have a meeting to go through all the possibilities. On 17 October 2022 at 2:56pm, I replied to Ms Wilkinson by email suggesting we discuss on Teams. A copy of this email chain is exhibited at page 104 of the email chain at pages **154 to 157 of Exhibit TTS-1.**
109. On 18 October 2022 at 5:07pm, I sent an agenda for a meeting to Ms Wilkinson, Mr Bendall, Ms Simoneau, Mr Fordham, Ms Donovan, Mr Farley and Ms Thornton (which then forwarded to Ms Saunders). The purpose of the meeting was to provide a brief update on the status of Court proceedings, discussing the media responses for a guilty/not guilty verdict, writing and speaking to the DPP to correct the record, and writing to the media about defamation issues. A copy of this email is exhibited at page 159 of the email chain at pages **158 to 160 of Exhibit TTS-1.** The proposed guilty/not guilty responses in that email are below:

Upon a guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell. It shed a light on the unacceptable history of workplace behaviour and culture at Parliament House and helped lead an important national conversation.

Upon a not guilty verdict:

Lisa Wilkinson and The Project respect the Court, criminal justice system and acknowledge the verdict handed down by the jury. We understand this is a difficult time for many involved in this trial.

We must acknowledge the bravery and courage of Brittany Higgins in speaking out and sharing her story. This was an important story to tell, which helped shape national conversations surrounding workplace behaviour and culture at Parliament House and at workplaces across the country."




110. On 19 October 2022 at 3:08am, Mr Fordham sent me an email stating in relation to the draft letter "*it needs to be made clear this isn't just 'Lisa's recollection', it was also yours and anyone else present at that meeting.*" I replied at 7:02am stating that "*we can add in the second paragraph that it was both Lisa's and my recollection*". A copy of this email chain is exhibited at page 161 of the email chain at pages **161 to 163 of Exhibit TTS-1.**
111. Mr Fordham emailed again at 3:23am in relation to the draft media statements, stating that "*Rather adding further unnecessary weight on Lisa's shoulders, can it just refer to 'Network Ten and The Project. Obviously, everything was legally checked by Ten while working for the Project so this shouldn't rest on Lisa personally.*" I was concerned at the time about Ms Wilkinson's and Network Ten's obligations to the Court. I replied at 7:13am recommending against Ms Wilkinson or Network Ten providing any comments in response to journalists. A copy of this email chain is exhibited at pages **164 to 166 of Exhibit TTS-1.**
112. On 19 October 2022 at 9:26am, Mr Fordham sent me an email setting out a draft letter to Mr Drumgold, which had been drafted by Ms Saunders, with Ms Wilkinson's proposed changes. A copy of this email is exhibited at pages **167 to 170 of Exhibit TTS-1.**
113. On 19 October 2022 at 9:30am, I attended a meeting with Ms Wilkinson, Mr Bendall, Ms Simoneau, Mr Fordham, Ms Donovan, Mr Farley, Ms Saunders and Ms Thornton, at the offices of Network Ten. A copy of the email chain arranging this meeting is exhibited at pages **171 to 173 of Exhibit TTS-1.**
114. On 20 October 2022 at 2:48pm, I sent Ms Wilkinson an email enclosing a further copy of the updated draft letter to Mr Drumgold, and stated "*We can re-visit this again once Malia [sic] speaks to the DPP as that conversation may mean its re-framed in some way.*" A copy of this email is exhibited at page 174 of the email chain exhibited at pages **174 to 177 of Exhibit TTS-1.**
115. On 24 October 2022 at 7:06pm, I sent Ms Wilkinson an email from Ms Saunders which detailed Ms Saunders' conversation with Mr Drumgold. A copy of this email is exhibited at page 178 of the email chain at pages **178 to 179 of Exhibit TTS-1.**
116. On 25 October 2022 at 9:58am, Ms Wilkinson responded to me by email, stating that the email to Mr Drumgold looked "promising". Ms Wilkinson expressed her preference that Mr Drumgold release one simple statement about the Logies warning that never happened. A copy of this email is exhibited at page 178 of the email chain at pages **178 to 179 of Exhibit TTS-1.**



117. On or about 27 October 2022 I became aware through Ms Hogg that the jury in the criminal trial was discharged. The criminal trial was rescheduled to commence in February 2023.
118. On 27 October 2022 at 10:26am I sent an email to Mr Bendall, Ms Donovan, Ms Simoneau, Ms Thornton, Mr Fordham and Ms Wilkinson, in relation to the discharge of the criminal trial. At the time I was concerned about the risk of contempt as the discharge of the jury meant that the contempt period continued given that a new trial would occur at some point in the future. For that reason, I advised that Network Ten and Ms Wilkinson should not comment on the trial. These emails are set out at page 181 of the email chain at pages **180 to 182 of Exhibit TTS-1**.
119. On 27 October 2022 at 11:29am, Ms Wilkinson replied to me by email asking about what the discharge of the criminal trial meant in regards to her commitment to the Court not to talk or report on the trial until its conclusion. As the contempt period continued to run, I advised Ms Wilkinson at 11:53am that she was still unable to comment on the trial. A copy of this email chain is exhibited at pages **180 to 182 of Exhibit TTS-1**.
120. On 27 October 2022 at 12:27pm, Ms Wilkinson replied to me by email and asked if McCallum CJ would be presiding over the new trial. I responded that evening at 6:21pm stating that it was more than likely. These emails are exhibited at page 183 of the email chain at **183 to 186 of Exhibit TTS-1**.
121. On 28 October 2022 I received an email from Ms Wilkinson concerning a Daily Mail article published about her. I understood from this email that Ms Wilkinson was extremely frustrated, however I was still concerned at the time about Network Ten's and Ms Wilkinson's obligations to the Court and the potential for public statements to impact the future trial so I advised that the approach had not changed, and that we should not send any letters to the press to correct inaccuracies. These emails are exhibited at page 187 of the email chain at pages **187 to 190 of Exhibit TTS-1**.
122. Ms Wilkinson responded to my email on 28 October 2022 at 2:02pm expressing her frustration that she had waited five months to correct the record regarding the meeting with Mr Drumgold. Ms Wilkinson and Mr Fordham then indicated they wanted to chat about that issue. I responded by copying in Ms Simoneau and Mr Bendall as I did not think there was anything to be done from a legal perspective, but they may be able to assist Ms Wilkinson from a PR perspective. These emails are exhibited at page 192 of the email chain at pages **191 to 195 of Exhibit TTS-1**.



Variation of Ms Wilkinson's contract and reconstitution of The Project panel

123. On 16 November 2022, Ms McGarvey forwarded to me for my records an email chain between Ms McGarvey, Mr Fordham, and Giorgia Taylor (an agent at the Fordham Company). The email chain is exhibited at pages 196 to 200 of Exhibit TTS-1. In that email chain:

(a) On 11 November 2022 at 3:58pm, Ms McGarvey emailed Mr Fordham and referred to a call that they had that morning. Ms McGarvey stated in that email:

"As discussed, with the personnel changes that are already in train for the Project next year, we are keen to use this opportunity to take the Project in a new direction in 2023 with a refreshed talent line-up to reposition the show and hopefully improve its audience performance, especially in our key younger demographics. We are considering a program with a lighter tone and a more consistent line-up across the week."

(b) Mr Fordham responded to that email on 14 November 2022 at 11:50am stating, amongst other matters:

As you have acknowledged, everything Lisa has done, at every stage, was signed off and encouraged by The Project, Network Ten and Network Ten's legal team.

And right now, Lisa is the only one who is publicly paying the price.

It remains extraordinary, and deeply unfair, that this whole imbroglio began because of the sheer excellence of her ground-breaking interview with Ms Higgins, which won this peer-voted Logie in the first place.

(c) Ms McGarvey responded to Mr Fordham on 16 November 2022 at 4:37pm to clarify the position on why Ms Wilkinson was removed from the panel:

"I would like to clarify an apparent misapprehension that our decisions regarding Lisa's hosting responsibilities on The Project have been triggered by the harsh (and unfair) public criticisms that were directed toward her by certain hostile parts of the media following her outstanding efforts on the Brittany Higgins story.

As mentioned in our meeting last week and my email below, we wish to take The Project in a new direction in 2023 with a refreshed talent line-up so as to reposition the show and hopefully improve its audience performance, with a particular focus on our key younger demographics. Hence, we are making several changes – you will already be aware of another high-profile change – and the change to Lisa's participation is only one of many changes that will be made in that context."

124. I was not involved in matters concerning the variation of Ms Wilkinson's contract, however I have been provided a bundle of emails evidencing the negotiation of the

variation between Network Ten and Ms Wilkinson. These emails are exhibited at pages 201 to 248 of Exhibit TTS-1.

Discontinuation of the criminal trial

125. On 1 December 2022 at 11:07am, Ms Wilkinson sent an email to Ms McGarvey, Mr Fordham, Ms Saunders and myself, which stated:

"I have just heard, confidentially, from Brittany Higgins' partner, David Sharaz, that the DPP is making a statement at 10am tomorrow declaring that he has "had advice from two independent medical experts that the life of the complainant in the Bruce Lehrmann case is at serious risk. Whilst the pursuit of justice is vital, the safety of a complainant in a sexual assault matter must be paramount. And so in balancing all factors, it is no longer in the public interest to pursue prosecution at the risk of a complainant's life and I have filed a notice declining to proceed further. That brings this prosecution to an end."

David told me that Brittany is going into hospital today to keep her safe and to escape the media storm this will create.

Can we please have an urgent zoom meeting today at your earliest convenience with invitees restricted to just those in this email, in order to strategise our own situation in regards to the DPP's responsibility to now set the record straight about the fact no warning was given for me not to give that fully-approved and legally-cleared Logies speech.

My thinking is that any statement he makes will no now [sic] longer put at risk or bring into question any judicial outcome."

A copy of this email is exhibited at page 249 of Exhibit TTS-1.

126. I emailed Ms Saunders at 11:24am asking her if she thought it would be a good idea to contact Mr Drumgold by phone or email, to see if he would be willing to make a statement about Ms Wilkinson after the DPP's statement. A copy of this email is exhibited at page 150 of the email chain at pages 250 to 251 of Exhibit TTS-1.

127. On 1 December 2022 at 12:13pm, I replied to Ms Wilkinson by email, stating:

"The matter is listed for 1.30pm tomorrow – the media (collectively) were informed that it would be a closed Court session and have sought to be heard on that point prior to the listing so they could report on the matter, subject to any suppression orders.

I understood that the plan post trial (or arguably in the event prosecution was discontinued) was for Marlia to call the DPP and remind them of their willingness to correct the record most likely via a statement although Shane Drumgold wanted to think on how he did so. You may also recall from our discussions that whilst we could agitate for this, the exact form or delivery of any such correction may not be in our control, as the DPP will have other considerations to take into account.




Given your discussion with David is confidential, we have no basis to approach the DPP now ie: how do we 'officially' know what is going to happen in Court tomorrow, so we would need to wait until after the hearing for Marlia to call.

I am free until 3.00pm today but have limited availability after until after 6pm. We could also chat tomorrow, I am free from 10.30am. I would also suggest a N10 publicity person participate on the call (in Cat's absence I can see if Anthony is available)."

A copy of this email is exhibited at page 252 of the email chain at pages **252 to 253** of **Exhibit TTS-1**.

128. On 1 December 2022 at 6:24pm, Ms Saunders sent an email to Mr Drumgold, which stated:

"Dear Mr Drumgold

I refer to our telephone discussion on 24 October 2022 regarding my client, Lisa Wilkinson. On that occasion, we discussed your intention to make a public statement following the resolution of the Lehrmann proceedings to the effect that no contempt of court was committed by Ms Wilkinson and the DPP has no intention of pursuing contempt charges against her.

You may be aware that, since that conversation, Ms Wilkinson has left her role on The Project due to the unwarranted media attention she has received in connection with these proceedings.

I note that you will be making a media statement tomorrow at 10am. Without speculating as to what will be said by you during that conference, I request that consideration be given to you also making a statement in relation to Ms Wilkinson during the conference. Ms Wilkinson is very concerned that the injustice she has experienced be addressed at the earliest opportunity.

Thank you in advance for your consideration of this request. If you would like to discuss this further, please let me know."

A copy of this email is exhibited at page **254** of **Exhibit TTS-1. WLK.001.001.0238**

129. On 1 December 2022 at 6:40pm Ms Wilkinson emailed Ms Saunders, copying me, Mr Fordham, Ms McGarvey and Ms Watts stating;

"Thanks so much for your time this evening re tomorrow's 10AM announcement from Shane Drumgold regarding the Lehrmann case ending.

As agreed Marlia, if you don't manage to get on to the DPP this evening, could you please ensure the following points are made clear in your follow-up email to Mr Drumgold.

**Our earnest request that he honours his previous two offers to you to correct the public record, making it clear that Lisa Wilkinson was never "warned" not to give that speech, and in so doing right the complete injustice done to Lisa Wilkinson's good name and reputation.*




That he understands that even since your last communication with him, because of the unprecedented and unrelenting damage done to Lisa Wilkinson's reputation in the six months since the Logies, she has had to resign her role as co-host of The Project.

A copy of this email is exhibited at page 255 of the email chain at pages **255 to 257** of **Exhibit TTS-1**.

130. I was copied on an email from Ms Saunders to Ms Wilkinson later that evening stating "As anticipated, Shane Drumgold didn't answer my call, so I emailed him with the request. I had already emailed him prior to receiving your email but confirm that I covered the points you raised." A copy of this email is exhibited at page 258 of the email chain at pages **258 to 260** of **Exhibit TTS-1**. On 2 December 2022 at 8:28am, I forwarded Ms Saunders' email to Ms Wilkinson. A copy of this email is exhibited at pages **261 to 262** of **Exhibit TTS-51**.

131. On 2 December 2022, Ms Wilkinson sent me a text message, which I then copied in an email to myself. As a matter of practice, I try to limit text message communication on work matters. If I receive a text message which is work related and it contains anything substantive, I either send the content as an email to my work email for filing or if there is a series of text messages I will screen shot the series of text messages and send them to my work email address for filing. Ms Wilkinson said:

"Just tried to call you Tasha. I am shocked by the email sent by Marlia to the DPP. It does not at all address the one central issue that needs addressing and that is that I was never warned in that meeting in June. The contempt issue has been dealt with in the public mind because I was never previously charged. What they don't know is that I was not warned. I need him to address that much repeated accusation that I acted completely recklessly and against his warnings. In plain English. I do not understand why it has not been worded in the way we agreed on that call. And in my email. I feel really badly let down and feel really confused as to how this steps right back from all of our previous correspondence. Another email needs to be immediately sent to specifically address this."

I understand Ms Wilkinson was referring to Ms Saunders' email to Mr Drumgold on 1 December 2022 at 6:24pm. A copy of this email is exhibited at **page 263** of **Exhibit TTS-1**.

132. As Ms Wilkinson was obviously upset, I called her that evening at 8:53pm. We spoke for approximately 17 minutes about her text message and Ms Saunders' email. I recall that Ms Wilkinson said she was upset about the framing of Ms Saunders' email. Ms Wilkinson was "venting" her emotions at the situation. I then recall that I explained the email to her and why that approach had been taken. By the end of the call, Ms Wilkinson **was not upset** and she said words to the effect of "thank you for taking the time to explain that to me".

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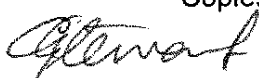
133. On 2 December 2022 during the morning, I became aware through the media or through Ms Saunders of Mr Drumgold's announcement that he had filed a notice declining to proceed with the retrial of the Criminal Proceeding. No statement was made about Ms Wilkinson or Network Ten.
134. On or around 6 December 2022 we became aware of rumours among journalists that Mr Lehrmann was going to sue Network Ten. I heard this from Ms Donovan in publicity who sent me an article that morning, a copy of which is exhibited at **page 264** of **Exhibit TTS-1**.
135. On 7 December 2022, I found out from Ms Saunders that the Daily Mail and The Australian had published the letter we sent to the DPP on 22 June 2022. That day we briefed Dr Collins and Tim Senior to act for Network Ten in relation to any defamation action against it. Mr Senior confirmed he was available to take the brief that evening, and Dr Collins confirmed the next day. We did not consult Ms Wilkinson at that stage there was no information of which I, or anyone else at Network Ten as far as I knew, suggested that a claim would be made against her personally.
136. On 7 December 2022 at 6:46pm, I had a 30 minute telephone call with Ms Wilkinson, during which we discussed the approach being taken in relation to Mr Drumgold. I recall that we also discussed, the tweet from Ms Higgins in which she said that she would give evidence in any defamation trial, and the release of the 22 June 2022 letter to the DPP by the Daily Mail.
137. On 8 December 2022 at 2:07pm I sent Ms Saunders an update on a conversation I had with Ms Wilkinson the previous evening. I said:

"I had a long chat to Lisa yesterday and she is comfortable with a steady approach as you have suggested ie: to wait until later this week to call, then circulate a letter and send it next week. She understands that backing him into a corner will mean a no and that if the press is to be believed he may be unwilling to assist.

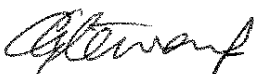
She also understands that N10 won't issue a statement as it won't want to antagonise the Office of the DPP, which means we need to take a careful approach to see if we can make this work."

A copy of this email is exhibited at page 265 of the email chain at pages **265** to **266** of **Exhibit TTS-1**.

138. On 9 December 2022 at 9:10pm, Ms Saunders sent Ms Wilkinson, Mr Fordham and myself a draft copy of the letter to be sent to Mr Drumgold. A copy of this email is exhibited at pages **267** to **271** of **Exhibit TTS-1**. I continued to correspond with Ms Wilkinson and Ms Saunders by email regarding changes to the letter to Mr Drumgold. Copies of these emails are exhibited at pages **272** to **293** of **Exhibit TTS-1**.




139. On 12 December 2022 at 6:05pm, Ms Wilkinson replied to Ms Saunders stating: "*Dear Marlia, I am in your hands for the best possible outcome, so please go ahead and send. I am happy with the changes.*" A copy of this email is exhibited at page 294 of the email chain at pages **294 to 295** of **Exhibit TTS-1**.
140. On 13 December 2022, Ms Saunders sent the letter to Mr Drumgold attaching the letter. A copy of this email is exhibited at pages **296 to 298** of **Exhibit TTS-1**.
141. On 15 December 2022 at 9:43am, Mr Fordham emailed Ms Saunders asking if she had heard from Mr Drumgold, but she replied that she had not and would try calling Mr Drumgold again that day. A copy of this email is exhibited at page 299 of the email chain at pages **299 to 302** of **Exhibit TTS-1**.
142. On 15 December 2022, at 10:54am Ms Wilkinson sent Ms Saunders an email asking for an update on attempts to contact Mr Drumgold. A copy of this email is exhibited at page 303 of the email chain at pages **303 to 307** of **Exhibit TTS-1**.
143. On 15 December 2022, at 4:11pm Ms Saunders responded to Ms Wilkinson's email informing him that she had made three attempts to call Mr Drumgold, and he might be avoiding her calls because he does not want to take any action at this time. Ms Saunders advised there was nothing further we could do from a legal perspective. A copy of this email is exhibited at page 308 of the email chain at pages **308 to 311** of **Exhibit TTS-1**.
144. On 15 December 2022, at 6:02pm Ms Wilkinson responded to Ms Saunders asking for any suggestions on how to correct the public record. A copy of this email is exhibited at pages **312 to 317** of **Exhibit TTS-1**.
145. On 15 December 2022, at 7:01pm Mr Fordham also responded to Ms Saunders' email asking if Mr Drumgold was obliged to formally respond to Ms Saunders under 4.1.3 of the Legal Professionals Conduct Rules and whether Network Ten could issue a formal public statement. Mr Fordham also asked Ms McGarvey to introduce him to Ten's crisis communications company. A copy of this email is exhibited at pages **318 to 322** of **Exhibit TTS-1**.
146. I agreed with Ms Saunders' view that there was nothing more that could be done from a legal perspective. I communicated this to Ms Wilkinson and Mr Fordham on 16 December at 9:31am, and explained the reasons why there was nothing more that we could do. A copy of this email is exhibited at page 323 of the email chain at pages **323 to 328** of **Exhibit TTS-1**.

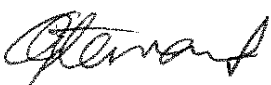


147. On 16 December 2022 at 1:20pm, Mark O'Brien Lawyers sent a letter to Network Ten alleging defamation of his client Mr Lerhmann (**Concerns Notice**) which I note did not refer to Ms Wilkinson.
148. On 16 December 2022, I forwarded the Concerns Notice to Ms Wilkinson, Mr Bendall and Angus Llewellyn at 2:02pm and stated:

"Please see attached - as expected. We will speak to external lawyers and counsel (we had already retained Matt Collins and Tim senior) and work with them on any response. We have 28 days to respond. Do call me on the mobile as may be easier to chat over the phone."

A copy of this email is exhibited at pages **329** to **337** of **Exhibit TTS-1**.

149. Ms Wilkinson called me later than afternoon and we spoke about the Concerns Notice. I explained to her that the Concerns Notice was only addressed to Network Ten and was marked "private and confidential". The letter also contained a confidential settlement offer. Mr Thomas and I agreed that we needed to be careful about disclosing the contents of the Concerns Notice, particularly because of the sensitive subject matter. We took the view that if we were going to settle the matter or concede any matters asserted in the Concerns Notice we would engage with Ms Wilkinson and Mr Llewellyn. However, as we chose not to engage with the settlement offer, and pushed back on the matters raised in the Concerns Notice, we did not engage with Ms Wilkinson or Mr Llewellyn when responding to the letter.
150. On 16 December 2023 at around 6:47pm I also called Mr Llewellyn and spoke to him about the Concerns Notice.
151. Despite my advice set out in paragraph 146 above, on 20 December 2022 at 7:42 PM Nick Fordham replied to my email stating that we still needed to pursue this until "matters are properly addressed and dealt with". Mr Fordham said that it may not be in Network Ten's interest to release a public statement at this time, but he still wanted to discuss it. A copy of this email is exhibited at pages **338** to **344** of **Exhibit TTS-1**. At the time, I also did not think it was in Ms Wilkinson's interests to release a public statement because more publicity would not solve the problem. My understanding from the Network Ten publicity team was that the media were generally negative about Ms Wilkinson, so Network Ten publicity was concerned that releasing another statement could backfire on Ms Wilkinson. As the Stay Judgment could be reported by the press as a fair report, it was likely that media could report our statement and repeat her Honour's remarks in the Stay Judgment.



152. On 21 December 2022 at 9:52am Ms Saunders replied to Mr Fordham's email, stating that the announcement of the Board of Inquiry, which will review the Lehrmann trial, explained why Mr Drumgold had not responded to any of Ms Saunders' correspondence as Mr Drumgold would not be in a position to say anything publicly while the inquiry was pending. A copy of this email is exhibited at page 345 of the email chain at pages **345 to 352 of Exhibit TTS-1**.

153. I agreed with the advice that there was not much more Network Ten could do from a legal perspective for the following reasons:

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- (a) If defamation proceedings were commenced against Network Ten and Ms Wilkinson we could need the cooperation of the DPP in defending such matter (including by way of access to the DPP's file).
- (b) We (and Ms Saunders) did not agree with Mr Fordham's observations about the DPP's professional obligations. In any case, if he wanted to lodge a complaint against Mr Drumgold he could have done so in his capacity as her agent.
- (c) Network Ten's obligations did not extend to making claims against the DPP, which in our view (and Ms Saunders') had no merit and were counterproductive. It is important for media organisations which prepare and broadcast news and current affairs programming to have a good working relationship with the DPP generally, as a bad relationship would harm us in defending any future claims against Network Ten and other Network Ten journalists (which would include Ms Wilkinson in any other future claims against her).
- (d) If Mr Fordham considered that any other media outlet had made indefensible defamatory claims against Ms Wilkinson, then Ms Wilkinson would be entitled to bring defamation claims in her own name and for her own benefit. Network Ten would have no standing in these claims.

154. I felt that we had done everything we could to assist Ms Wilkinson in correcting the record, and I genuinely did feel sorry for Ms Wilkinson as the Stay Judgment was incorrect. However, I felt that there was nothing more we could do at that time.

155. On 11 January 2023, Mr Fordham sent an email to myself and Ms Wilkinson asking if we can join a call to discuss the next steps with Mr Drumgold, the Inquiry and also Network Ten's position re the defamation letter. A copy of this email is exhibited at pages **353 to 355 of Exhibit TTS-1**.

156. I replied to Mr Fordham by email on 11 January 2023 at 5:33pm repeating Ms Saunders' advice that the DPP is not in a position to respond or take any further action at this time, so there are no further steps we can take during the course of the inquiry. I also

reminded Mr Fordham that no claim or demand was made against Ms Wilkinson in relation to the defamation letter and that the letter is expressed to be confidential between Mr Lehmann and Network Ten. A copy of this email is exhibited at page 356 of pages **356 to 357 of Exhibit TTS-1**

157. Despite my advice, Mr Fordham replied to me by email on 11 January 2023 at 9:53pm stating that he and Ms Wilkinson would not be satisfied until they get the result they were after. Mr Fordham also said that he appreciated it was not in Network Ten's interests to pursue the correction. He also insisted that he have some understanding of how Network Ten is proposing to respond to the Concerns Notice. A copy of this email is exhibited at page 358 of the email chain at pages **358 to 360 of Exhibit TTS-1**.
158. Mr Fordham sent me an email on 18 January 2023 at 9:30am asking for a catch up, and if he would prefer me liaising with Ms McGarvey on this. A copy of this email is exhibited at page 361 of the email chain at pages **361 to 363 of Exhibit TTS-1**.
159. I replied to Mr Fordham by email on 19 January 2023 at 1:00pm letting him know that I separately provided an update to Ms Wilkinson in relation to Network Ten's management of legal matters. I said it was a matter for him if he wanted to involve Ms McGarvey, but that these were legal matters managed by Mr Thomas and myself. A copy of this email is exhibited at page 364 of the email chain at pages **364 to 367 of Exhibit TTS-1**. The update that I had provided to Ms Wilkinson was by email on 18 January 2023 at 9:41am in which I stated:

"I think the reference to the radio is a reference to the Jonsey [sic] and Amanda show post the Logies which has nothing to do with N10.

I haven't provided Nick with a copy of the letter as we wouldn't normally liase [sic] with him on N10 matters which includes this matter and the Lehmann letter. The Lehmann letter is also subject to confidentiality so we actually can't provide it or a response to him.

We (and external lawyers) can discuss with him the matters relating to you and the DPP as we have continued to do so.

In relation to N10 matters arising out of The Project story, I will provide you directly with any updates as appropriate (given the matters are largely left with legal) in the same way I would update Chris/Angus."

160. On 23 January 2023 at 10:15am, I sent an email to Mr Bendall, Ms Simoneau, Mr Angus and Ms Wilkinson providing an update on the response to the Concerns Notice. I sent




the update to all people relevant to the Concerns Notice, of which Ms Wilkinson was one. I said that we could not provide a copy of the response given the confidentiality issues. A copy of this email is exhibited at page 368 of **Exhibit TTS-1**.

161. Ms Wilkinson replied to me by email on 23 January 2023 at 1:42pm stating:

"Thanks so much for letting me know Tasha. The need for speed before Christmas would indicate Lehrmann only had a small window before the other, new rape charges became public.

I imagine arguing reputational damage now becomes a much harder fight for him to win."

A copy of this email is exhibited at page 369 of the email chain at pages 369 to 370 of **Exhibit TTS-1**.

162. On 24 January 2023 at 10:00am, Ms Saunders sent an email to Ms Wilkinson, copying myself providing an article from Guardian Australia which said that the terms of reference for the inquiry were expected to be released the next week. A copy of this email is exhibited at page 371 of **Exhibit TTS-1**.

163. Ms Wilkinson replied to Ms Saunders by email, copying me, on 24 January 2023 at 10:19, stating:

"Thanks so much Marlia. I will be fascinated to see what those terms are.

Meantime, I just wanted to clarify, do you think now would be a good time for me to send my personal letter to Shane Drumgold asking him to honour his two, separate commitments to you that he would clarify, on the public record, the fact he did not warn me or Tasha in that June 15 pre-Logies meeting not to give that speech? "

A copy of this email is exhibited at page 372 of **Exhibit TTS-1**.

164. I replied to Ms Saunders and Ms Wilkinson by email on 25 January 2023 at 11:05, stating that I was happy to be guided by Ms Saunders as to the timing of the letter. I also questioned if Mr Drumgold would respond while the inquiry was running, and if it would be better to wait until the inquiry was completed, because I had concerns about the point of sending a letter that Mr Drumgold could not respond to. I asked Ms Wilkinson to run the letter by me before sending it so I could review it for any waiver for Network Ten's privilege. A copy of this email is exhibited at pages 373 to 374 of **Exhibit TTS-1**.

165. Ms Saunders replied to Ms Wilkinson and myself by email on 25 January 2023 at 1:44pm, stating:

"Lisa, I recommend that you wait until we see the terms of reference for the inquiry next week, then we can consider the letter in that context.




As Tasha said, I'm happy to review the letter before it is sent. "

A copy of this email is exhibited at page 375 of the email chain at pages **375 to 376** of **Exhibit TTS-1**.

166. On 27 January 2023 at 11:32am, Ms Wilkinson sent an email to Ms Saunders, Mr Fordham and myself objecting to our suggestion that Ms Wilkinson wait on sending her personal letter to Mr Drumgold. I note there was some misunderstanding concerning whether Ms Saunders had changed her mind in relation to when the letter should be sent. Ms Wilkinson described her preference for the letter to be sent before the terms for the Inquiry were announced. A copy of this email is exhibited at pages **377 to 381** of **Exhibit TTS-1**.
167. Ms Saunders responded to Ms Wilkinson by email on 27 January 2023 at 12:48pm suggesting some changes the letter. Ms Saunders clarified with Ms Wilkinson that her mind had not changed, and that she did not think that the release of the term of the reference for the Inquiry changed the position as Mr Drumgold would be restricted in what he could say or do regardless. Ms Saunders said that the terms of reference would merely inform us of the topics to be covered during the Inquiry. A copy of this email is exhibited at page 382 of the email chain at pages **382 to 383** of **Exhibit TTS-1**.
168. Ms Wilkinson responded to Ms Saunders on 28 January 2023 at 12:43pm, stating "*while I agree with you, and totally expect that he won't respond, the timing of its arrival really matters to me*". A copy of this email is exhibited at page 384 of the email chain at pages **384 to 385** of **Exhibit TTS-1**.
169. Ms Saunders responded to Ms Wilkinson by email on 30 January 2023 at 10:48am suggesting some changes to the letter directed to ensuring that privilege was not waived, and avoiding the risk of contempt because of Ms Wilkinson's comments about McCallum CJ. Ms Saunders said that subject to those changes, it was a matter for Ms Wilkinson as to whether she send the letter now. A copy of this email is exhibited at page 386 of the email chain at pages **386 to 392** of **Exhibit TTS-1**.
170. On 30 January 2023 at 3:29pm, Ms Wilkinson replied to Ms Saunders' email asking questions about Ms Saunders' advice. A copy of this email is exhibited at page 393 of the email chain at pages **393 to 399** of **Exhibit TTS-1**. Ms Saunders responded to Ms Wilkinson's questions at 30 January 2023 at 4:59pm. A copy of this email is exhibited at pages **400 to 403** of **Exhibit TTS-1**.
171. Ms Wilkinson emailed Ms Saunders, Mr Fordham and me on 1 February 2023 at 12:09pm letting us know that the terms of reference for the Inquiry were being released




that day, and that she wouldn't be sending the letter as the window of opportunity for Ms Wilkinson to send the letter had closed. A copy of this email is exhibited at page 404 of email chain at pages **404 to 406** of **Exhibit TTS-1**.

172. I was surprised when I received Ms Wilkinson's email, as I had thought that Ms Saunders' advice was clear: being that Mr Drumgold is unlikely to respond, but that Ms Wilkinson could send the letter subject to resolving the privilege and contempt risk issues. I responded to Ms Wilkinson by email on 1 February 2023 at 1:34pm clarifying this. A copy of this email is exhibited at page 408 of the email chain at pages **407 to 411** of **Exhibit TTS-1**.
173. Ms Wilkinson responded to me by email on 1 February 2023 at 5:12pm expressing her understanding that she was waiting for my approval on the letter. A copy of this email is exhibited at page 412 of the email chain at pages **412 to 417** of **Exhibit TTS-1**.
174. On 1 February 2023 at 5:24pm, Ms Saunders responded to Ms Wilkinson's email, apologising for not making it clearer that I had reviewed the draft letter and was in agreement with the proposed changes. Ms Saunders also provided the terms of reference for the inquiry. Ms Wilkinson responded at 6:08pm thanking Ms Saunders for providing those details. A copy of this email chain is exhibited at page 418 of the email chain at pages **418 to 424** of **Exhibit TTS-1**.
175. On 2 February 2023 at 6:00pm, Ms Saunders responded to Ms Wilkinson's email setting out all of the steps we had taken to get a result for her, being the numerous and repeated attempts to contact Mr Drumgold. A copy of this email is exhibited at page 425 of the email chain at pages **425 to 431** of **Exhibit TTS-1**.
176. On 3 February 2023, Mr Fordham sent an email to Ms Wilkinson, Ms Saunders and myself expressing Ms Wilkinson's frustration, and seeking our opinion on whether or not Network Ten should make an urgent submission to extend the terms of reference to include the delay in the trial and Mr Drumgold's conduct in failing to correct the public record relating to his instructions to Ms Wilkinson at the meeting. He also asked if Ten should consider making a formal complaint to the Bar Association of the ACT. A copy of this email is exhibited at page **432** of **Exhibit TTS-1**.
177. On 3 February 2023, I responded to Mr Fordham's email stating that Ms Saunders would act solely for Ms Wilkinson on this matter so that she could have direct recourse to Ms Wilkinson's advice without Network Ten's involvement. The reason why I proposed that Ms Saunders would act for Ms Wilkinson directly was because we were still committed to supporting Ms Wilkinson, even if Network Ten did not want to engage with the submission process. I did not think it would give rise to conflict issues as Ms Wilkinson



was still a Network Ten employee. I thought that Ms Saunders would be a good option to support Ms Wilkinson as Ms Saunders was already across the matter, and from my observation had developed good relationship with Ms Wilkinson. I also expressed my view that it was not appropriate for Network Ten to make any submissions to the Inquiry, for several reasons, including that any complaint was properly a personal complaint by Ms Wilkinson; and my view that Network Ten did not consider it appropriate for Network Ten it to lodge a complaint to the Bar Association of the ACT. A copy of this email is exhibited at page 433 of the email chain at pages **433** to **434** of **Exhibit TTS-1**.

178. I do not recall ever telling Ms Wilkinson or Mr Fordham that Network Ten would file submissions in the inquiry, so I do not understand why Ms Wilkinson was "shocked" (as deposed in paragraph 64 of her affidavit) that Network Ten did not wish to file submissions.
179. The reason why Network Ten did not wish to file submissions was that we had concerns about any participation in the Inquiry given that contempt issues could be raised again. Further, from a PR perspective, the thinking was that further publicity would not be beneficial to Network Ten or Ms Wilkinson.
180. I have reviewed paragraphs 65 to 67 of Ms Wilkinson's Affidavit, being a phone call she had with Ms Saunders. Ms Wilkinson at paragraph 67 states that there were matters relevant to Network Ten that Ms Saunders could not disclose to her. I did not disclose anything to Ms Saunders that I did not want her to disclose to Ms Wilkinson, Ms Saunders did not hold any information confidential to Network Ten relating to its decision not to file submissions in the inquiry.
181. I understand from paragraph 65 of Ms Wilkinson's Affidavit that Ms Saunders said that Ms Wilkinson would need to run any personal submission she wished to make by Network Ten. At paragraph 90 of Ms Wilkinson's Affidavit she also states that she was "*constrained from making any public statements without the approval of TEN*". The purpose of this was to ensure that Ms Wilkinson was not waiving Network Ten's privilege in advice provided by Network Ten to Ms Wilkinson. Network Ten was able to prevent Ms Wilkinson from making a submission, or to require her to change the submission more broadly because Ms Wilkinson was constrained from making any public statement concerning the business or affairs of Network Ten without consent. Clause 5(c)(f) of Ms Wilkinson's contract dated 12 July 2021 states that "*make any public statement concerning the business or affairs of TEN or any of its employees, agents or contractors*" without consent. Network Ten gave its permission for Ms Wilkinson to file submission at the Board of Inquiry, and was only concerned about privilege not being waived. This was not intended to be a roadblock for Ms Wilkinson making her submission.

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Defamation proceeding

182. On 7 February 2023, Ms Saunders informed me that she had received an email from Mr Lehrmann's barristers stating that he had filed proceedings against Network Ten and Ms Wilkinson, and asking if Ms Saunders had instructions to accept service (**Defamation Proceeding**). Ms Saunders asked if she should call Ms Wilkinson that evening, and I said she should do so. A copy of this email is exhibited at page 435 of the email chain at pages **435 to 437 of Exhibit TTS-1**.
183. On 8 February 2023 at 7.29am, Ms Wilkinson sent an email to Ms Saunders and myself providing an article to a link from The Australian which indicated that Ms Wilkinson was being sued. A copy of this email is exhibited at page **438 of Exhibit TTS-1**
184. On 8 February 2023 at 7.40am, Mr Fordham sent an email in response to Ms Wilkinson's email, asking that Network Ten's crisis communication, PR, or legal team email the Australian to correct the reports. A copy of this email is exhibited at pages **439 of Exhibit TTS-1**.
185. On 8 February 2023 at 7:46pm, Ms Saunders emailed Ms Wilkinson stating that we hadn't yet been served with documents, but the online court listing indicated that other respondents had been sued in addition to Network Ten. A copy of this email is exhibited at pages **440 to 441 of Exhibit TTS-1**.
186. On 8 February 2023 at 7.47am, I emailed Ms Wilkinson stating that the claim document was likely provided to the press before being served, and that it is likely she may also have been named in the proceedings. A copy of this email is exhibited at page 441 of the email chain at pages **441 to 443 of Exhibit TTS-1**.
187. I received the claim documents from Mr O'Beirne (a Lawyer at Thomson Geer working with Ms Saunders) on 8 February 2023 at 12:24pm. A copy of this email is exhibited at pages **444 to 446 of Exhibit TTS-1**.

Ms Wilkinson's separate representation

188. On 14 February 2023 at 8:53am, Mr Fordham send Ms McGarvey an email stating his view that Ms Wilkinson should be represented by a different legal firm and counsel to Network Ten in defending the claims. He said "Network Ten is obliged to indemnify Lisa in relation to this claim. Accordingly, and given my comments above, please confirm that Network Ten accepts that obligation, including by covering any costs Lisa might be ordered to pay, and paying for Lisa's legals for these proceedings." Ms McGarvey sent

me a copy of this email on 14 February 2023, which is exhibited at page 447 of Exhibit TTS-1.

189. On 14 February 2023, I became aware that Gillis Delaney filed a notice of change of solicitor for Ms Wilkinson at around 1:30pm following a conversation with Ms Saunders.
190. On 14 February 2023 at 3:12pm, Ms Saunders sent me an email stating that she had just had a conversation with Mr Jefferies. A copy of this email is exhibited at page 448 of the email chain at pages 448 to 449 of Exhibit TTS-1. Ms Saunders described the conversation as follows:

"As discussed, I just had a conversation with Anthony.

He said he has been the Fordham family lawyer for decades and has advised Lisa previously. He said he has had a watching brief in this matter.



His instructions were that Lisa had not instructed us to appear for her. I told him that was not the case and we had a 1 hour conference with her and Nick last Wednesday. All he was told is that the pleadings had been sent to her.

He was mortified and apologised profusely. He said if he had known he would have picked up the phone and would have handled things completely differently. He said he will be making some calls now because he believes he has been misadvised.

He said he has a lengthy conference with Lisa on Saturday before she left for France along with Sue Chrysanthou SC who is briefed as counsel.

He said he wants to work collaboratively on the matter and did not intend to do anything to jeopardise that."

191. On 15 February 2023 at 7:07am I responded to Mr Fordham's email to Ms McGarvey, a copy of which is exhibited at pages 450 and 451 of the email chain at pages 450 to 453 of Exhibit TTS-1. At paragraph 94 of Ms Wilkinson's Affidavit she refers to this email.


. That is not the case, and not what my email said. I said that "we can revisit the question of payment of any judgement for damages as the proceedings unfold and the parties develop their respective defence strategies." The intention of this was to remind Mr Jefferies of the fact that if Ms Wilkinson's approach to the litigation cut across Network Ten's approach and thereby undermined its defence of the matter, we would potentially not be liable for her damages. At this stage, we did not yet have Ms Wilkinson's defence, so we were alive to that possibility.

192. In that email of 15 February 2023, I also stated that:

"had we been consulted, we would not have endorsed selection or appointment of either solicitors or counsel, noting in particular, that Sue Chrysanthou SC is customarily a plaintiff, not a media defendant counsel, and routinely acts in opposition to the network and it's interests. Further, we would not have endorsed the initial approach taken by Gillis Delaney Lawyers in their correspondence with

Stewart

[Signature]

the Applicant's lawyers. However, we acknowledge that Lisa has elected to pursue her own defence without the endorsement of the network, and so the network would not assume responsibility for the consequential costs."

193. These were my concerns regarding Ms Chrysanthou SC. Further reasons for these concerns not expressed at the time were:
- (a) as a general rule, Network Ten's preference is not to engage barristers who undertake predominantly plaintiff work and who do not routinely act or have deep experience in acting for mass media organisations;
 - (b) I am also aware of a circumstance where Ms Chrysanthou cross-examined a junior lawyer at Network Ten who also undertakes clearance work for The Project, in my view, to an extreme and unnecessary extent.
194. On 28 February 2023, at 8:10pm Dr Collins sent Mr Senior, Ms Saunders, and Mr O'Beirne an email describing a "long (and heated)" conversation he had with Ms Chrysanthou about her intention to file a counterclaim in the proceeding against Network Ten because it has refused to indemnify Ms Wilkinson. A copy of this email forwarded to me by Ms Saunders is exhibited at pages **454** to **458** of **Exhibit TTS-1**.
195. Later that evening I became aware through an email from Ms Saunders that Ms Wilkinson intended on filing their defence the next day, a week before the deadline. A copy of this email is exhibited at page **459** of **Exhibit TTS-1**.
196. On 3 March 2023, Mr Quill sent me and Mr Thomas an email providing a copy of a letter from Gillis Delaney sent that day. A copy of this email and attachment is exhibited at pages **460** to **464** of **Exhibit TTS-1**.
197. At paragraph 94 of Ms Wilkinson's Affidavit she claims that we engaged in "weaponisation of an alleged rape victim in this correspondence put forward by Ms McGarvey". I assume that Ms Wilkinson is referring to an email from Mr Zwier that Ms McGarvey forwarded to Mr Fordham and Ms Wilkinson on 15 March 2023 which stated the following:

"For the avoidance of any other misunderstandings, Brittany has instructed me not to assist lawyers and Counsel currently retained by Lisa Wilkinson to defend civil claims commenced by Lehrmann against Lisa Wilkinson. I am not prepared to work with Lisa's current senior Counsel, under any circumstances. And the more Brittany is required to deal with differing lawyers the worse it is for her to manage the civil trial processes to the detriment of all those defending Lehrmann's civil claims. If Lisa Wilkinson subsequently elects to retain the same lawyers as Ten then, the process will be smoother, more orderly and manageable."




198. Ms Higgins was a critical third party witness from the trial, and was integral to any truth defence that Network Ten or, necessarily, Ms Wilkinson would put forward. We had no control over her legal representation, and Network Ten had limited dealings with them. I do not understand how informing Ms Wilkinson and Mr Fordham of the fact that Ms Higgins, a critical witness, did not want to assist their choice of legal representation constitutes weaponisation of Ms Higgins.
199. On 20 March 2023 at 6:32pm, Ms McGarvey sent an email to Mr Fordham. A copy of this email and attachment is exhibited at pages **465 to 466** of **Exhibit TTS-1**.
200. At paragraph 106 of Ms Wilkinson's Affidavit she refers to a conversation that she had with Ms McGarvey on 7 June 2023. Ms McGarvey made a file note of this conversation which was sent to me, Mr Thomas, Mr McCarthy and Mr Villani that evening. A copy of that file note is exhibited at pages **467 to 468** of **Exhibit TTS-1**.
201. On 7 June 2023, Ms McGarvey forwarded me an email that she sent to Mr Fordham, in which she said:

"I have just spoken to Lisa to check in to see how she was given how challenging it has been for her this week.

As you are well aware she is really not in a great place, and I hope she is taking some professional mental health care? Let me know if she is not currently obtaining ongoing professional support, and we can assist in providing her access to our independent, confidential support services.

She mentioned her legal fees, and it seems that she is alarmed by the amount. We objected at the outset to Lisa's choice of counsel but have nevertheless confirmed that we will reimburse Lisa for those legal costs incurred by her that Ten is required to reimburse. As you know, these arrangements are in discussion between external lawyers who are best placed to resolve the full extent of Ten's obligations.

I explained that we are doing all we can do within the confines of the law to deal with the situation around the Spotlight story. I am not sure she was across that. Maybe she was but has a lot on her plate. A point of understandable consternation is the further reporting by those sections of the Australian media that are hostile to Lisa who are continuing to publish derogatory stories off the back of the Spotlight program. Understandably, she is very upset by that, but of course, we simply cannot make them stop. She made a point about we didn't tell her when she was going to be on the front of the Australian – but we are not aware, in advance of publication, when these stories will break or the content of such stories. I understand that Lisa's lawyers have been communicating with our lawyers about the actions that Ten is taking, and that Lisa's lawyers have been comfortable with both the actions taken and those that are in progress.

I just wanted to let you know we are concerned for her state of mind and appreciate this is difficult for her, noting that Ten's lawyers are taking all the actions in response to the fallout from the Spotlight story that are legally available given the restraints of the current defamation proceedings."

A copy of this email is exhibited at pages **469 to 470** of **Exhibit TTS-1**.




202. On 14 June 2023, Ms McGarvey forwarded me an email from Ms McGarvey to Mr Fordham in which she said:

"Can you please come back to me on the note I sent last week on how Lisa is doing; we are concerned the strain these last few weeks are putting on her mental health. As such I do not feel it is appropriate that we meet tomorrow to discuss new projects, it feels very premature.

As you know I spoke with Lisa last week and did not feel she was in a great place, given all the on-going coverage our primary concern before we start talking about other projects is that Lisa is well enough to work and that for now she has the time and space she needs to manage the ongoing legal matters.

If you wish to pitch some ideas for her for down the line when she is feeling better we are very happy to hear them but before we start engaging directly with Lisa again we would love to hear from you about how she is, or if you prefer to keep that confidential we are happy to discuss this when she is ready."

A copy of this email is exhibited at page 471 of the email chain at pages **471 to 472** of **Exhibit TTS-1**.


Board of Inquiry

203. I gave a written statement which supported Ms Wilkinson's version of the meeting with the DPP on 15 June 2022 and I was subpoenaed and gave evidence at the Board of Inquiry on 26 May 2023. A copy my statement is exhibited at pages **473 to 474** of **Exhibit TTS-1**.


204. Network Ten decided not to make a submission to the Inquiry as it continued to have concerns regarding the risk of a contempt prosecution in relation to the Logies Speech, and that any submission could result in adverse rather than favourable publicity for Network Ten and Ms Wilkinson regardless of the outcome.

Sworn by the deponent
at Barangaroo
in NSW
on 25 January 2024
Before me:

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Signature of deponent



Signature of witness

Andrew Gavin Stewart
Solicitor
Level 46, 100 Barangaroo Avenue,
Barangaroo NSW 2000, Solicitor