

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Interlocutory Application - Form 35 - Rule 17.01(1)(a)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 17/01/2025 2:36:35 PM AEDT
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File Number: NSD189/2024
File Title: ANTOINETTE LATTOUF v AUSTRALIAN BROADCASTING CORPORATION
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: Interlocutory Hearing
Time and date for hearing: 22/01/2025, 11:00 AM
Place: By Web Conference, Level 17, Law Courts Building 184 Phillip Street Queens Square, Sydney; Court No. 5, Level 7, Harry Gibbs Commonwealth Law Courts Building Level 6, 119 North Quay, Brisbane



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 35
Rule 17.01(1)



Interlocutory application

No. NSD 189 of 2024

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

Antoinette Lattouf

Applicant

The Australian Broadcasting Corporation

Respondent

To the Respondent

The Applicant applies for the interlocutory orders set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

Time and date for hearing: [Registry will insert time and date]

Place: [address of Court]

Date:

Signed by an officer acting with the
authority of the District Registrar



Interlocutory orders sought

1. Pursuant to r8.21 of the *Federal Court Rules 2011* (Cth), the Applicant be granted leave to amend the Consolidated Amended Originating Application, in the form attached to this application at Annexure A.
2. Orders 1 and 2 of the orders made on 11 December 2024, be vacated.
3. By no later than **5pm** on **24 January 2025**, the Respondent is to give discovery of the categories contained in Schedule 1 to these orders, in accordance with r20.16 by filing a list of documents in accordance with r20.17.
4. The Respondent is to produce the discovered documents pursuant to order 1, by no later than 5 pm on **24 January 2025**, electronically on a hard drive, or via a document sharing platform.
5. Costs be reserved.

Service on the Respondent

It is intended to serve this application on the Respondent

Date: 17 January 2025

A handwritten signature in black ink, appearing to be 'JB', written over a horizontal dotted line.

Signed by Josh Bornstein, Lawyer for the Applicant



Schedule 1

The Respondent will give the Applicant discovery of documents in the following categories:

1. All documents, including minutes or notes, created by persons who were party to the following meetings or conversations recording the content of those meetings or conversations:
 - a. the conversations between Stephen Ahern and Elizabeth Green on 18 December 2023 as referred to at [38] and [47]-[49] to Stephen Ahern's affidavit, and at [35] and [44]-[45] to Elizabeth Green's affidavit;
 - b. the conversation between Antoinette Lattouf and Elizabeth Green on 18 December 2023 referred to at [48] to Elizabeth Green's affidavit;
 - c. the meetings or conversations between Benjamin Latimer, Stephen Ahern and Simon Melkman on 18 December 2023 as referred to at [17] to Benjamin Latimer's affidavit and/or Stephen Ahern's affidavit at [44];
 - d. the conversation between Christopher Oliver-Taylor and Benjamin Latimer on 19 December 2023 referred to at [20] to Christopher Oliver-Taylor's affidavit and/or [26]-[27] to Benjamin Latimer's affidavit;
 - e. the conversation between Antoinette Lattouf and Elizabeth Green on 19 December 2023 referred to at [61] to Elizabeth Green's affidavit;
 - f. the meeting or conversations on 19 December 2023 involving Christopher Oliver-Taylor, Benjamin Latimer and Simon Melkman referred to at [69] to Christopher Oliver-Taylor's affidavit and/or [72] to Stephen Ahern's affidavit and/or [52]-[59] to Simon Melkman's affidavit;
 - g. the conversations or meetings between Benjamin Latimer and Stephen Ahern on 19 December 2023 referred to at [20]-[22] to Benjamin Latimer's affidavit;
 - h. the call on 19 December 2023 involving Christopher Oliver-Taylor referred to at [71] to Simon Melkman's affidavit;
 - i. the conversation between Stephen Ahern and Elizabeth Green on 19 December 2023 referred to at [74]-[75] to Stephen Ahern's affidavit;
 - j. the meeting between Ita Buttrose and David Anderson on 19 December 2023 referred to at [56] and [59] to David Anderson's affidavit;
 - k. the conversations on 19 December 2023 between David Anderson and Christopher Oliver-Taylor referred to at [62]-[63] to David Anderson's affidavit and/or [68] to Christopher Oliver-Taylor's affidavit;
 - l. the conversation between Benjamin Latimer and Christopher Oliver-Taylor on 20 December 2023 referred to at [31] to Benjamin Latimer's affidavit;



- m. the meeting on 20 December 2023 referred to at [101]-[111] to Christopher Oliver- Taylor's affidavit and/or [34]-[35] of Benjamin Latimer's affidavit and/or [94]-[95] to Stephen Ahern's affidavit and/or at [67] to Elizabeth Green's affidavit and/or [80] to Simon Melkman's affidavit;
 - n. the conversation between Benjamin Latimer and Christopher Oliver-Taylor referred to at [42] to Benjamin Latimer's affidavit;
 - o. the conversation between Benjamin Latimer and Stephen Ahern on 20 December 2023 referred to at [43] to Benjamin Latimer's affidavit and/or [99] to Stephen Ahern's affidavit;
 - p. the conversation involving Stephen Ahern on 20 December 2023 referred to at [72] to the affidavit Elizabeth Green;
 - q. the conversation between Christopher Oliver-Taylor and Benjamin Latimer referred to at [121] to Christopher Oliver-Taylor's affidavit;
 - r. the conversation on 20 December 2023 involving Stephen Ahern, Elizabeth Green and Ronald Spurway referred to at [16] to Ronald Spurway's affidavit;
 - s. the meeting with Antoinette Lattouf on 20 December 2023 referred to at [105] to Stephen Ahern's affidavit and/or [74] to Elizabeth Green's affidavit and/or [18] to Ronald Spurway's affidavit; and
 - t. the conversations on 20 December 2023 between David Anderson and Christopher Oliver-Taylor referred to at [92] and [100] to David Anderson's affidavit.
2. The positions descriptions of the roles that the following individuals were fulfilling as at 18 to 21 December 2023:
 - a. Benjamin Latimer;
 - b. Christopher Oliver-Taylor;
 - c. Stephen Ahern; and
 - d. Simon Melkman.
 3. Copies of Stephen Ahern's handwritten diary for 18 to 20 December 2023.
 4. All documents, including but not limited to text messages, messages over WhatsApp and other platforms, created in December 2023, recording communications between Christopher Oliver-Taylor and any other employee or officer of the Respondent about the employment by the Respondent of Antoinette Lattouf not captured by category 1.
 5. All documents, including but not limited to text messages, messages over WhatsApp and other platforms, created in December 2023, recording communications to and from Ita Buttrose about the employment by the Respondent of Antoinette Lattouf other than those captured by category 1.



6. All documents, including but not limited to text messages and messages over WhatsApp and other platforms, created in December 2023, recording communications to and from David Anderson about the employment by the Respondent of Antoinette Lattouf other than those captured by category 1.
7. All documents, including but not limited to text messages and communications over WhatsApp or other online platforms, recording communications between David Anderson and any other person created in December 2023, relating to or referring to the 'WhatsApp' group referred to in his email correspondence to Ita Buttrose dated 20 December 2023 which appears at Tab 20 of Exhibit DA-1.
8. All documents recording communications between employees of the Respondent employed in People and Culture and Christopher Oliver-Taylor and/or Ben Latimer and/or Steve Ahern relating to the decision to remove Ms Lattouf from air on 21 and 22 December 2023.
9. All documents recording communications between employees or officers of the Respondent and Sophie Elsworth or other journalists from The Australian newspaper on 19-22 December 2023 in relation to Antoinette Lattouf.
10. Daily ratings for Sydney Mornings in the weeks:
 - a. commencing 18 December 2022;
 - b. commencing 4 December 2023;
 - c. commencing 11 December 2023; and
 - d. Commencing 18 December 2023

'Document' has the same meaning as under the *Evidence Act 1995 (Cth)*.

ANNEXURE A



Form 15
Rules 8.01(1); 8.04(1)

Further Consolidated Amended Originating application

No. NSD189 of 2024

Federal Court of Australia
District Registry: NSW
Division: Fair Work

Antoinette Lattouf
Applicant

Australian Broadcasting Corporation
Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing: [Registry will insert time and date]

Place: [address of Court]

The Court ordered that the time for serving this application be abridged to [Registry will insert date, if applicable].

Date:

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party) Antoinette Lattouf, Applicant
Prepared by (name of person/lawyer) Josh Bornstein, Lawyer for the Applicant
Law firm (if applicable) Maurice Blackburn Lawyers
Tel 02 8267 0940 Fax _____
Email jbornstein@mauriceblackburn.com.au; pparker@mauriceblackburn.com.au
Address for service Level 29, 161 Castlereagh Street, Sydney NSW 2000
(include state and postcode)



Details of claim

On the grounds stated in the ~~accompanying~~ further amended consolidated statement of claim, the applicant claims the following relief:

1. Declarations pursuant to s 545 of the *Fair Work Act 2009* (Cth) (**FW Act**) and/or s 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**) that the respondent contravened s 50 of the FW Act by not complying with clauses 55.2.1(a), 55.2.1(b), 55.2.1(c), 55.2.1(f) and 55.2.2 of the ABC Enterprise Agreement 2022-2025 (**Enterprise Agreement**) after an allegation of misconduct had been made.
2. A declaration pursuant to s 545 of the FW Act and/or s 21 of the FCA Act that the respondent contravened s 50 of the FW Act by purporting to summarily dismiss the applicant when she was not guilty of and had not committed serious misconduct within the meaning of clauses 55.6.1 and 57.1.1(a) of the Enterprise Agreement.
3. In the alternative to paragraph 2, a declaration pursuant to s 545 of the FW Act and/or s 21 of the FCA Act that the ABC contravened s 50 of the FW Act by purporting to terminate the applicant's employment on a basis not set out in clause 57.1.1 of the Enterprise Agreement.
4. ~~In the alternative to paragraphs 2 and 3, a~~ A declaration pursuant to s 545 of the FW Act and/or s 21 of the FCA Act that the ABC contravened s 50 of the FW Act by not allowing the applicant to present the Mornings program on 21 and 22 December 2023, which was not a sanction available under the ABC Enterprise Agreement 2022-2025.
- 4A. A declaration pursuant to s 545 of the FW Act and/or s 21 of the FCA Act that the ABC contravened s 772(1)(f) of the FW Act by terminating her employment on 20 December 2023 for reasons that included:
 - a. one or more of the applicant's political opinions in paragraph 1A of the consolidated amended statement of claim;
 - b. one or more of the applicant's political opinions in paragraph 1A of the consolidated amended statement of claim and:
 - i. her race (Lebanese and/or Arab and/or Middle Eastern); and/or
 - ii. national extraction (her Lebanese and/or Arab and/or Middle Eastern heritage and that she is a descendant of foreign immigrants).
5. ~~An order pursuant to s 545(2)(c) of the FW Act for reinstatement of the applicant to a commensurate position to that from which the respondent dismissed her.~~



6. An order pursuant to s 545(2)(b) of the FW Act, that the respondent pay the applicant compensation for non-economic loss suffered as a result of the contraventions declared in paragraphs 1 to 4A above.
7. An order pursuant to s 546(1) and (3) of the FW Act that the respondent pay pecuniary penalties to the applicant for the contraventions declared in paragraphs 1 to 4A above.
8. An order that the respondent implement a compliance program for a minimum of 12 months to educate its management on the requirements of clause 55 of the Enterprise Agreement.
9. Such further or other orders as the Court considers appropriate.

The applicant's address for service is:

Place: Maurice Blackburn Lawyers
Level 29
161 Castlereagh Street
Sydney NSW 2000

Email: jbornstein@mauriceblackburn.com.au pparker@mauriceblackburn.com.au

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: ~~22 February 2024~~ ~~15 July 2024~~ 17 January 2025

A handwritten signature in black ink, appearing to be 'JB' with a long horizontal stroke extending to the right.

Signed by Josh Bornstein
Lawyer for the Applicant