

## NOTICE OF FILING

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Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads "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.

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Form 59  
Rule 29.02(1)

## Affidavit

No. 189 of 2024

Federal Court of Australia  
District Registry: New South Wales Registry  
Division: Fair Work

### ANTOINETTE LATTOUF

Applicant

### AUSTRALIAN BROADCASTING CORPORATION

Respondent

Affidavit of: **Ronald (Mark) Spurway**  
Address: 700 Harris Street, Ultimo NSW 2007  
Occupation: Transmissions Advisor  
Date: 11 October 2024

### Contents

Document number	Details	Paragraph	Page
1	Affidavit of <b>Ronald (Mark) Spurway</b> affirmed on 11 October 2024.	1	1
2	Annexure " <b>RMS-1</b> ", being copy of an email from Antionette Lattouf dated 20 December 2023.	23	7

I Ronald (Mark) Spurway, 700 Harris Street, Ultimo NSW 2007, affirm:

- I make this affidavit based on my own direct observations and knowledge, save for where I say otherwise. Where I depose to matters based on information provided to me, I identify the source of that information and otherwise believe such information to be true and correct, based on the source of the information, the source's role, and the circumstances in which it was provided to me.

Filed on behalf of (name & role of party) Australian Broadcasting Corporation, the Respondent  
Prepared by (name of person/lawyer) Ben Glenn Dudley  
Law firm (if applicable) Seyfarth Shaw Australia  
Tel (02) 8256 0413 Fax \_\_\_\_\_  
Email [bdudley@seyfarth.com](mailto:bdudley@seyfarth.com)  
**Address for service** Level 40, Governor Phillip Tower, 1 Farrer Place, SYDNEY NSW 2000  
(include state and postcode)

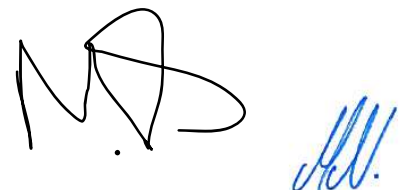
2. Where I state words that I have spoken or heard, I will do so setting out the substance or gist of those words to the best of my recollection.
3. I have reviewed the affidavit of Antoinette Lattouf dated 9 September 2024 (**Lattouf Affidavit**). Where I have not responded to a matter in the Lattouf Affidavit, that should not be understood as my agreement with Ms Lattouf's evidence in relation to that matter.

## **BACKGROUND AND QUALIFICATION**

4. Between October 2023 and February 2024, I was employed by the Australian Broadcasting Corporation (**ABC**) in the position of Acting Manager, ABC Radio Sydney. I was engaged by the ABC to work as the Acting Manager, ABC Radio Sydney while the incumbent, Mr Steve Ahern, acted in the position of Head of Capital City Networks.
5. I have had over 40 years' experience in the Australian media industry. Between 2003 and 2017, I worked at the ABC for 14 years in the position of Head of Transmission Network Services.
6. Since 2017, I have been self-employed in my own travel business and from time-to-time, I provide management consultant services to clients where I draw on my technical expertise in the areas of broadcasting transmission networks, contract management plans, service contracts, and radio and television strategic planning.
7. I am currently engaged by the ABC as a Transmissions Advisor on a consultancy basis.

## **My role at the ABC**

8. In my role as Acting Manager, ABC Radio Sydney, I was responsible for the day-to-day management of the ABC Sydney radio station. This involved directly overseeing and managing editorial issues, human resourcing, project management, complaint processes, budgeting and general management of the station. I was responsible for the following programs that are presented on ABC Radio Sydney:
  - (a) *Breakfast*, 5:30 am – 8:00 am;
  - (b) *Mornings*, 8:30 am – 11:00 am;
  - (c) *Afternoons*, 12:30 pm – 3:30 pm;
  - (d) *Drive*, 3:30 pm – 6:30 pm;



(e) *Evenings*, 7:00 pm – 10:00 pm; and

(f) *Nightlife*, 10:00 pm – 2:00 am.

9. ABC Radio Sydney is on-air 24 hours a day. My colleagues in the Audio Content Division directed other national programs overnight and on weekends that are also presented on ABC Radio Sydney between those that are listed above, and I work closely with those colleagues in my role.
10. In my role as Acting Manager of ABC Radio Sydney, I reported to Mr Ahern as the Acting Head of Capital City Networks. There were approximately 65 employees in the ABC Sydney radio station who reported either directly or indirectly to me.

### **MS LATTOUF AT THE ABC**

11. I first had dealings with Ms Lattouf on Monday, 18 December 2023 when she was filling-in for Sarah MacDonald on *Sydney Mornings* during holiday programming. Prior to that time, I had not worked with Ms Lattouf. I was not involved in the recruiting of Ms Lattouf to present on *Sydney Mornings*.

### **Tuesday, 19 December 2023**

12. On Tuesday, 19 December 2023, I was told (though I cannot now remember by who) that the ABC had received some complaints about Ms Lattouf being on air.
13. While I cannot now recall how I became aware of it, I was aware on Monday, 18 December 2023 or Tuesday, 19 December 2023, that Elizabeth Green, Content Director, had been asked by Mr Ahern to speak to Ms Lattouf about not posting anything about the Israel-Gaza war on social media. I later came to understand that Ms Green had spoken to Ms Lattouf shortly after she finished her shift on *Sydney Mornings* on Tuesday, 19 December 2023.

### **Wednesday, 20 December 2023**

14. On the morning of Wednesday, 20 December 2023, during the course of Ms Lattouf's shift, I approached her while she was sitting with her team and said words to the effect of "you are sounding good" and "you're doing a great job". Ms Lattouf thanked me for the feedback. At the time I made this comment to Ms Lattouf, I was unaware that Ms Lattouf had made a social media post the night before regarding the Israel-Gaza conflict.

15. Shortly after I made this comment to Ms Lattouf, I became aware that Ms Lattouf had made a social media post the night before regarding the Israel-Gaza conflict and that the conduct had been referred to someone at Mr Ahern's level or higher at the ABC to consider. This is the practice known as '*referring upwards*', which means that a more senior manager will consider the issue. I cannot recall who told me about this, but it is likely that it was Ms Green or Mr Ahern.
16. Sometime around midday on Wednesday, 20 December 2023, Mr Ahern, Ms Green and I were in my office (which had previously been Mr Ahern's office when he was not in his acting role, and which Mr Ahern was using temporarily for privacy). Mr Ahern said to Ms Green and me:

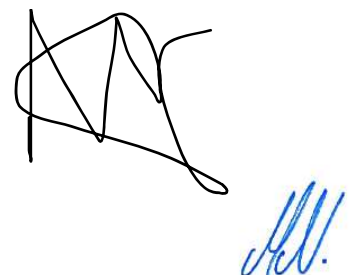
*A decision has been made that Ms Lattouf will be taken off-air on Thursday and Friday and we need to talk to her while she is still here.*

17. I had no visibility and was not involved in any way in the making of that decision or in any discussions with Mr Ahern about the decision that had been made about Ms Lattouf.
18. Mr Ahern asked Ms Green and me to stay in my office while he spoke to Ms Lattouf and Mr Ahern then proceeded to ask Ms Lattouf to join us in my office. I recall that Mr Ahern said to Ms Lattouf:

*You have posted something on social media which goes against the ABC's editorial policies and guidelines, in circumstances where Ms Green spoke to you on Tuesday and asked that you not post anything. As a result, we have made the decision to take you off-air and we do not require you to come in tomorrow and on Friday.*

19. I estimate that the meeting with Ms Lattouf only lasted for a couple of minutes. I did not take any notes during the meeting, nor did I say anything, other than to make some short personal remarks to Ms Lattouf at the end of the meeting.
20. At no point during the meeting did any person use the following words to describe the decision made to take Ms Lattouf off-air:

- (a) "*dismissed*";
- (b) "*sacked*"; or



(c) “terminated”.

21. opinion only It was not my understanding that Ms Lattouf’s employment was being terminated at the meeting. That is, I did not believe that Ms Lattouf was to be taken “off the books” and never to perform services for the ABC again. Accordingly, I did not direct anyone in my team to put in place any steps or processes in relation to Ms Lattouf’s employment.
22. In my experience, if a termination was to occur, the usual practice is that I would consult with and inform the People & Culture team of the decision and security would need to be advised to terminate the employee’s access card. I did not do this before, during, or after the meeting with Ms Lattouf and I did not direct any person to inform the People & Culture team that Ms Lattouf’s employment was to be terminated. In fact, on Monday, 29 January 2024, I checked the ABC’s systems to confirm that Ms Lattouf is still on the ABC People Hub system which covers payroll and rostering.
23. At 5:24 pm on Wednesday, 20 December 2023, I received an email from Ms Lattouf addressed to myself, Mr Ahern and Ms Green. I did not respond at the time and have never responded to this email. Annexed to this affidavit and marked “**RMS-1**” is a copy of that email.
24. I have had no interactions with Ms Lattouf since.

### **Payment to Ms Lattouf**

25. Soon after the meeting with Ms Lattouf, I spoke to Mr Ahern about arrangements for Ms Lattouf to be paid her full entitlements, including base rate and penalties, for the whole period of her casual agreement (that is, up until the Friday, 22 December 2023). Mr Ahern agreed that Ms Lattouf should be paid for Thursday, 21 December 2023 and Friday, 22 December 2023, even though she would not be required to perform the last two of her remaining shifts.
26. On either 28 or 29 December 2023, I asked the administrative assistant for ABC Radio Sydney to check that Ms Lattouf would be paid for her rostered shifts on Thursday, 21 December 2023 and Friday, 22 December 2023, in the normal fortnightly pay cycle.



**LATTOUF AFFIDAVIT**

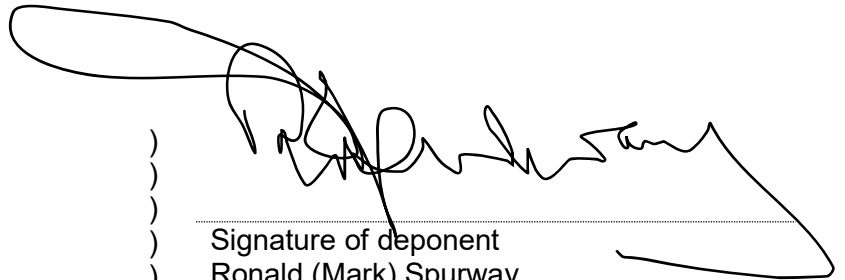
27. I refer to paragraph 41 of the Lattouf Affidavit regarding the meeting with Ms Lattouf on Wednesday, 20 December 2023. I do not recall Mr Ahern showing Ms Lattouf the Instagram post from Human Rights Watch on his phone.

28. In relation to paragraph 42 of the Lattouf Affidavit regarding the meeting with Ms Lattouf on Wednesday, 20 December 2023:

- (a) to my recollection, Ms Green did not say words to the effect of “*Yes, I’ve told them that I said that*” during the meeting. Rather, I distinctly recall seeing that Ms Green looked as though she was about to say something, but did not do so because Mr Ahern continued talking;
- (b) I recall Mr Ahern saying to Ms Lattouf words to the effect set out in paragraph 18 of this affidavit; and
- (c) I do not agree that Mr Ahern said to Ms Lattouf words to the effect of “*You can return to your desk, get your bag and leave*”. Mr Ahern said:

*“You should go back to your desk, let your team know, and then leave”.*

Affirmed by the deponent  
at Sydney  
in New South Wales  
on 11 October 2024  
Before me:

)   
 )  
 )  
 )  
 ) Signature of deponent  
 ) Ronald (Mark) Spurway

  
 Signature of witness

Mary-Anne Rossi Nolan

Qualification of witness: An Australian Legal Practitioner within the meaning of the *Legal Profession Uniform Law (NSW)*.

This document was signed in counterparts and witnessed over audio-visual link in accordance with Part 2B of the *Electronic Transactions Act 2000 (NSW)* with the deponent in Sydney and the witness in Sydney.



Federal Court of Australia  
District Registry: New South Wales Registry  
Division: Fair Work

**Certificate of annexure  
RMS-1**

**Antionette Lattouf**  
Applicant

**Australian Broadcasting Corporation**  
Respondent

This is the annexure marked "**RMS-1**" produced and shown to **Ronald (Mark) Spurway** at the time of affirming this affidavit at Sydney, New South Wales on 11 October 2024.

Before me:

\_\_\_\_\_  
(*Signature of witness*)

Name of witness: Mary-Anne Rossi Nolan

Qualification of witness: An Australian Legal Practitioner within the meaning of the *Legal Profession Uniform Law* (NSW)

## RMS-1

**From:** Antoinette Chiha Lattouf [REDACTED]  
**Sent:** Wednesday, 20 December 2023 5:24 PM  
**To:** ahern.steve@abc.net.au; spurway.mark@abc.net.au  
**Cc:** Elizabeth Green  
**Subject:** Questions regarding my dismissal  
**Attachments:** IMG\_4134.jpg

Hello Mark, Steve and Elizabeth,

I have some questions regarding my departure that I would like answered please. I believe I was unfairly dismissed and there will also be reputational damage due to the unfair manner in which I was let go and the very quick leak to the media.

As you are aware, today, at approximately 1.45pm, I was summoned by Steve for a quick chat. Mark and Elizabeth also joined the meeting.

In this short meeting, I was told that I was being let go because of one specific social media post (an Instagram story) which I have attached below. Can you please confirm whether the attached Instagram story is the social media post which the ABC alleges was in breach of the social media policy? Can you please also:

- specify exactly which section of the ABC's social media policy I allegedly breached by sharing that post; and
- explain as to how this post is said to be in breach of the guidelines.

I note that, on Monday 18th December I received a call from Elizabeth Green at approximately 3.30pm. We had a very honest and respectful discussion during which she told me that Jewish lobbyists were unhappy that I was on air. Elizabeth told me multiple times that she has absolute faith in my "journalistic integrity" and gave me a heads up to be mindful on social media. We talked about the show that day, and I was told the content was excellent, "no issues whatsoever". I responded by saying "I don't think it's fair to expect me to stop posting all together but I will be even more mindful". Elizabeth responded by saying that "I know that you are. You're smart and professional which is why I chose you and trained you to present". I then specifically asked if another "journalist gets killed or a reputable NGO like Amnesty International has information, am I able to share that without any loaded commentary or anything, but just quote an agency" and Elizabeth said "yes that's fine." Elizabeth also repeated in the meeting that, yes, she has told me that sharing straight facts and reputable sources was a "fine" and that she had told other senior management this too.

- Can you please explain how I'm said to have breached the social media guidelines when I was following an express direction given to me about the application of social media? Can you please also explain why any such breach warrants summary dismissal?

Further, at lunchtime today (Wednesday 20th) there was a station meeting where the following two things were expressed:

- I was singled out by Mark, thanked for the work I am doing, told I am "sounding great" and the audience are "responding very well"
- The team was also reminded not to leak internal ABC Radio Sydney information to the media following the [SMH leak](#) as it erodes team trust.

**In light of this can you please:**

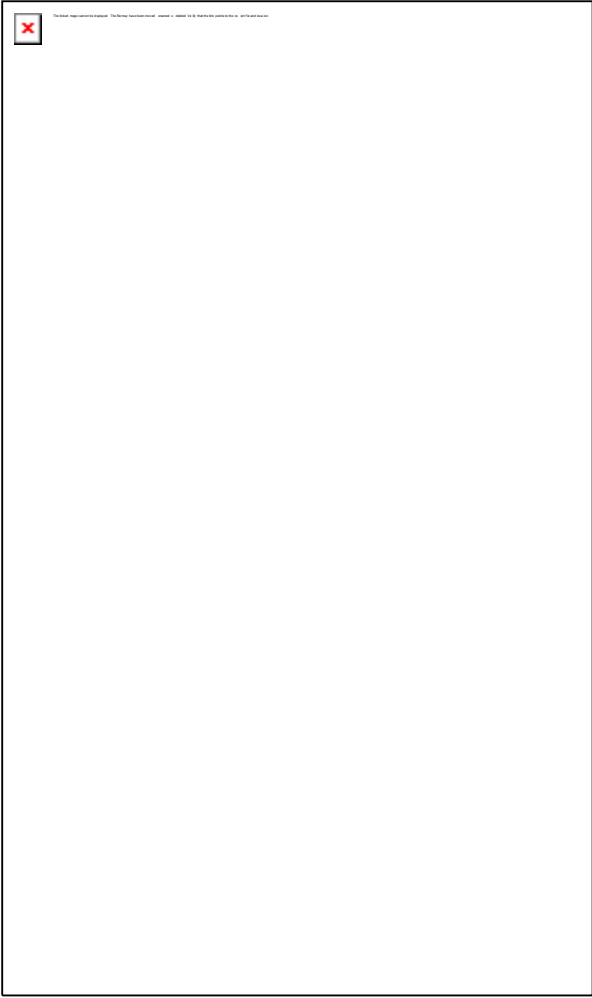
- Explain why I was dismissed less than an hour after being told my work was "great?"
- Can you please shed some light as to how the story got to The Australian so quickly because there was an article published before I even got home. It was less than an hour from when we had our discussion in Mark's office.
- Who made the final decision that my dismissal was warranted?

This has been an incredibly stressful week, since receiving that call on Monday I have had trouble sleeping and worked incredibly hard to produce excellent radio. The manner in which this has unfolded is incredibly distressing.

Given how swiftly this is playing out in the media, I would appreciate a swift reply as I have already been contacted by five media outlets and would like to respond to them by 8pm.

Many thanks,

Antoinette



# HRW reporting starvation as a tool of war

