

## NOTICE OF FILING

### Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 1/08/2024 3:57:10 PM AEST  
Date Accepted for Filing: 2/08/2024 9:22:59 AM AEST  
File Number: NSD701/2024  
File Title: BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250  
& 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. NSD701 of 2024

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

**BRUCE LEHRMANN**

Applicant

**NETWORK TEN LTD LIMITED ACN 052 515 250 and another**

Respondents

Affidavit of: **Zali Burrows**  
Address: Level 1, 299 Elizabeth Street Sydney NSW 2000  
Occupation: Solicitor  
Date: 1 August 2024

**Contents**

Document number	Details	Paragraph	Page
1	Affidavit of Zali Burrows in support of application for stay on the enforcement of the costs order of the Court below, until the hearing and determination of his appeal pursuant to r 36.08(2) of the <i>Federal Court Rules 2011 (Cth)</i> affirmed on 1 August 2024	1	1
2	Annexure "ZB1", being copy of the Costs Order made by Justice Lee on 27 June 2024 in the Court below.	3	5
3	Annexure "ZB2" being copy of Notice of Appeal filed on 31 May 2024.	4	8
4	Annexure "ZB3" being copy of the Second Respondents Notice of Notice of Content filed on 19 June 2024	5	14

Filed on behalf of Bruce Lehmann, Applicant  
 Prepared by Zali Burrows  
 Law firm Zali Burrows at Law  
 Telephone 02 8815 8182 Fax \_\_\_\_\_  
 Email Law@zali-burrows.com  
 Address for service Level 1, 299 Elizabeth Street Sydney NSW 2000

[Version 3 form approved 02/05/2019]

Document number	Details	Paragraph	Page
5	Annexure "ZB4" being copy of the First Respondent's Notice of Notice of Content on filed on 21 June 2024	6	24
6	Annexure "ZB5" being copy of Email dated 24 July 2024 from the First Respondent attaching Bankruptcy Notice BN272060	8	27

I, Za Burrows, Level 1, 299 Elizabeth Street Sydney NSW 2000 affirm:

1. I am the solicitor on record for the Applicant/Applicant ("Applicant") and I am authorised to make this affidavit on the Applicant's behalf in support of his application for a stay on the enforcement of the costs order of the Court below, until the hearing and determination of his appeal pursuant to r 36.08(2) of the Federal Court Rules 2011 (Cth).
2. I make this affidavit of the on the basis of information, knowledge and belief in respect of demonstrating a proper basis for a stay on the enforcement of the costs order of the Court below.

**The Costs Orders in the Court below**

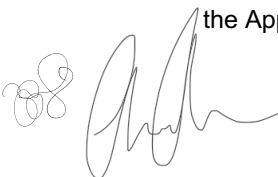
3. On 27 June 2024, Justice Lee made an Order for costs at [2] of the Orders, against the Applicant in the amount of \$2,000,000.00.  
A copy of that Order is **ZB1** and appears at **pages 5 to 3**.

**Notice of Appeal: An arguable case**

4. The Applicant filed a Notice of Appeal on 31 May 2024.  
A copy of the sealed Notice of Appeal is **ZB2** and appears at **pages 4 to 13**.

**Balance of Convenience competing rights of the parties: The Respondents file Notices of Contention**

5. On 19 June 2024 the Second Respondent filed a Notice of Contention to the judgment of the Federal Court dated 15 April 2024, of 2 grounds relied on being just fact and qualified privilege, totalling 8 pages.  
A copy of this Notice of Contention is **ZB3** and appears at **pages 14 to 23**.
6. On 21 June 2024 the First Respondent filed a Notice of Contention to the judgment of the Federal Court dated 15 April 2024, of 2 grounds relied on being that the primary judge ought to have found that the Applicant knew that Ms Higgins did not consent to having sex, contrary to the finding at [591] of the primary judgment and that the primary judge ought to have found that, if it had been necessary to assess damages in favour of the Applicant, the appropriate award was no or nominal damages, of 1 page.



A copy of this Notice of Contentions is **ZB4** and appears at **pages 24 to 26**.

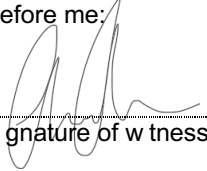
7. It is apparent the Respondents take issue with the judgment of the Federal Court dated 15 April 2024, and the respondents would be best served with the respondents to such a public judgment being heard in an Appeal.

**Real risk the Appeal will prove abortive if the Appellant succeeds and a stay is not granted: Detriment to the Appellant if refusal of a Stay results in the Appellant being a 'bankrupt'**

8. On 24 July 2024, the First Respondent sent the Appellant an email attaching a Bankruptcy Notice BN272060 for the total debt amount of \$2,000,000.
- A copy of this email and its attachment being Bankruptcy Notice BN272060 is **ZB5** and appears at **pages 27 to 32**.
9. To date of affirming this affidavit, the First Respondent has not been served the Bankruptcy Notice on the Appellant, nor has it sought an Order for substituted service by email pursuant to Rule 3.01 *Federal Court Bankruptcy Rules 2016*. In every event at some stage, the First Respondent will properly serve the Appellant with Bankruptcy Notice BN272060.
10. If a sequestration order is made against the Appellant, s. 60(2) *Bankruptcy Act 1966* applies in respect of any legal action commenced by the bankrupt is automatically stayed until the Trustee in Bankruptcy makes an election in writing as to whether to continue the proceedings or not. This does not include proceedings for personal injury yet may stultify the Appellant's ability to seek credit to fund necessary disbursements in the Appeal or ability to brief Counsel.
11. If a sequestration order is made against the Appellant and the Appellant is successful on the appeal, any damages he may receive are not likely to be enough to satisfy the Creditor (the First Respondent) debt of \$2,000,000. If the Appellant is successful on appeal, it will not form a proper basis at law to reverse a sequestration order made against the Appellant, prior to the outcome of the Appeal. The damage will have been done. If the Appellant is declared a bankrupt, it is likely to result in a further station in his character, and a state that cannot be corrected by any vindication from a successful outcome in his Appeal.

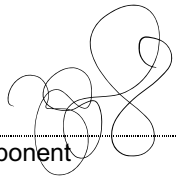


Affirmed by the deponent  
at Sydney  
in New South Wales  
on 1 August 2024  
Before me:

  
Signature of witness

Elena Alexander, solicitor

)  
)  
)  
)  
)

  
Signature of deponent

*This document was signed [in counterpart] and witnessed over audio visual link in accordance with section 14G of the Electronic Transactions Act 2000.*

**Annexure Certificate**

**“ZB1”**

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

No. NSD701 of 2024

**BRUCE LEHRMANN**

Appellant

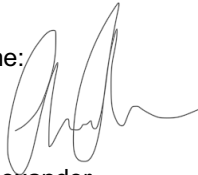
**NETWORK TEN LTD LIMITED ACN 052 515 250 and another**

Respondents

**This is the annexure marked “ZB1” produced and shown to Zali Burrows at the time of affirming her affidavit on 1 August 2024**

Annexure “ZB1” being copy of Costs Order made by Justice Lee on 27 June 2024 in the Court below.

Before me:



Euan Alexander

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

No: NSD103/2023

**BRUCE LEHRMANN**  
Applicant

**NETWORK TEN PTY LIMITED ACN 052 515 250** and another named in the schedule  
Respondent

**ORDER**

**JUDGE:** JUSTICE LEE

**DATE OF ORDER:** 27 June 2024

**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

1. Pursuant to ss 23, 37P(2) and 43 of the *Federal Court of Australia Act 1976* (Cth), the orders made on 10 May 2024 be varied such that the costs payable by the applicant in favour of the respondents be quantified in a fixed sum and Order 3 made on 10 May 2024 be vacated.
2. Judgment be entered in favour of the first respondent in the amount of \$2,000,000 representing its costs of the proceedings.

Date that entry is stamped: 28 June 2024

  
Registrar

**Schedule**

No: NSD103/2023

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

Second Respondent      LISA WILKINSON

**CROSS CLAIM**

Cross-Claimant          LISA WILKINSON

Cross Respondent        NETWORK TEN PTY LIMITED ACN 052 515 250

**CROSS CLAIM**

Cross-Claimant          NETWORK TEN PTY LIMITED ACN 052 515 250

Cross Respondent        LISA WILKINSON



**Annexure Certificate**

**“ZB2”**

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

No. NSD701 of 2024

**BRUCE LEHRMANN**

Appellant

**NETWORK TEN LTD LIMITED ACN 052 515 250 and another**

Respondents

**This is the annexure marked “ZB2” produced and shown to Zali Burrows at the time of affirming her affidavit on 1 August 2024**

Annexure “ZB2” being copy of Notice of Appearance filed on 31 May 2024.

Before me:



Euan Alexander

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged:	Notice of Appeal (Fee for Leave Already Paid) - Form 122 - Rule 36.01(1)(b)(c)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	31/05/2024 8:32:01 AM AEST
Date Accepted for Filing:	31/05/2024 4:14:59 PM AEST
File Number:	NSD701/2024
File Title:	BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



*Sia Lagos*

Registrar

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Form 122  
Rules 36.01(1)(b); 36.01(1)(c)

**Notice of appeal**

No. \_\_\_\_\_ of 2024

Federal Court of Australia  
District Registry: NSW  
Division: General

On appeal from the Federal Court of Australia

**Bruce Emery Lehmann**  
Appellant

**Network 10 Pty Ltd and Lisa Wilkinson**  
Respondents

To the Respondent

The Appellant appeals from the judgment as set out in this notice of appeal.

1. The papers in the appeal will be settled and prepared in accordance with the Federal Court Rules Division 36.5.
2. The Court will 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:**

Place: Federal court of Australia, Law Courts Building, 184 Phillip Street Queens Square, Sydney NSW 2000

Date:

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

Filed on behalf of (name & role of party) \_\_\_\_\_  
 Prepared by (name of person/lawyer) N/A Bruce Lehmann  
 Law firm (if applicable) N/A  
 Tel \_\_\_\_\_ Fax \_\_\_\_\_  
 Email \_\_\_\_\_  
 Address for service (include state and postcode) Thomson Geer Gillis DeLang lawyers

14/60 Martin Place  
Sydney NSW 2000

[Version 2 form approved 09/05/2013]  
40/161 Castlereagh St  
Sydney NSW 2000

B  
3/5



The Appellant appeals from part of the judgement of Lee J of the Federal Court of Australia given on 15 April 2024 at Sydney NSW.

Relevant sections: *Lehrmann v Network Ten Pty Ltd (Trial Judgement) [2024] FCA 369* – substantial truth/justification, evidence, quantum and damages; and orders 1092, 1093, 1094, 1095.

**Grounds of appeal**

1. Case found outside the pleadings – denial of procedural fairness by Trial Judge.

1.1 Case on justification as found was not pleaded by the First or Second Respondent.

1.2 Case on justification as found was not in the evidence of primary witness for the First Respondent.

1.3 Case of justification as found was not put to the Applicant in cross examination.

1.4 Trial Judge did not to raise the case he found in argument.

1.5 Trial Judge breached procedural fairness in allowing a case be found that was not pleaded or advanced by the First and Second Respondents or in the evidence of the primary witnesses for the First Respondent nor put to the applicant in cross examination.

1.6 The justification defence as pleaded has been rejected by the Trial Judge, it should follow that judgement is in favour of the Applicant.

2. Justification finding contrary to evidence and application of standard of proof required by Trial Judge.

2.1 A full review of the evidence and the findings by the Trial Judge together with the significant credibility problems of the First Respondents primary witness would satisfy the Court of Appeal that the principles flowing from *Briginshaw v Briginshaw* (1938) 60 CLR 336 and the relevant provisions of the Evidence Act have been misdirected and not applied.

2.2 The cornerstone 'evidence' advanced by the Respondents and by the primary witness was a photo and data relating to a bruise. The Trial Judge dismissed this as untrue as his Honour did with other secondary forms of so-called evidence the Respondents submitted. It was not open to the Judge to find the case he did, rather reject the case



pleaded by the Respondents and rule in favour of the Applicant in those circumstances.

3. Construction/misconstruction of the imputations by Trial Judge.

3.1 The imputations must be judged in the context of the particular publication, *Stoker v Stoker* [2020] AC 593 and not as the Trial Judge said as "ordinary, contemporary conceptions of rape" (594 of the judgement).

3.2 The broadcast suggests a violent rape, where the complainant was in tears and repeatedly refused consent, of which repeated refusal the perpetrator must have been aware. This is contrary to the non-violent rape involving inadvertent recklessness as to consent which was ultimately found in the judgement made by the Trial Judge.

4. Inadequate award of damages where aggravation made out by applicant

4.1 Trial Judge found the submissions of the Applicant relating to aggravation were made out, principally the Logies speech and the impact it had on the administration of justice and prejudicial impact of an upcoming jury trial.

4.2 It follows that the amount that the Trial Judge would have awarded in an alternative fall of the evidence is wholly inadequate.

**Orders sought**

1. Appeal allowed.
2. The judgement for the Respondents be set aside.
3. In lieu thereof, judgement in favour of the Appellant in amount to be assessed in this court or alternatively on remitter to a Judge of the Federal Court other than Justice Lee.
4. The Respondents pay the Appellants costs in this court.
5. The Respondents pay the Appellants costs in the primary proceeding.
6. The Appellant be heard on the form and nature of the costs order in Prayers 4 and 5 of the above.
7. Any other orders that the Court deems necessary.

**Appellant's address**

The Appellant's address for service is:

[REDACTED]

Email: [REDACTED]



4

**Service on the Respondent**

It is intended to serve this application on all Respondents.

Date: *31 May 2024*

A handwritten signature in black ink, appearing to read 'Bruce Lehmann', written over a horizontal line.

Signed by Bruce Lehmann  
Appellant

**Schedule**

No. \_\_\_\_\_ of 2024

Federal Court of Australia  
District Registry: NSW  
Division: General

**Appellant**  
Bruce Emery Lehmann

**Respondents**  
Network Ten Pty Ltd  
Second Respondent: Ms Lisa Wilkinson

Date:

**Annexure Certificate**

**“ZB3”**

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

No. NSD701 of 2024

**BRUCE LEHRMANN**

Appellant

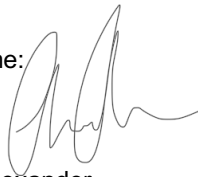
**NETWORK TEN LTD LIMITED ACN 052 515 250 and another**

Respondents

**This is the annexure marked “ZB3” produced and shown to Zali Burrows at the time of affirming her affidavit on 1 August 2024**

Annexure “ZB3” being copy of the Second Respondents Notice of Notice of Content on filed on 19 June 2024

Before me:



Eanna Alexander

## NOTICE OF FILING

### Details of Filing

Document Lodged: Notice of Contention - Form 124 - Rule 36.24  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 19/06/2024 1:26:04 PM AEST  
Date Accepted for Filing: 19/06/2024 1:26:07 PM AEST  
File Number: NSD701/2024  
File Title: BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250  
& ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Registrar

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Form 124  
Rule 36.24



## Second Respondent's Notice of contention

No. NSD701 of 2024

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

On appeal from the Federal Court of Australia

### BRUCE EMERY LEHRMANN

Appellants

### NETWORK TEN PTY LIMITED & ANOR (as set out in the Schedule)

Respondents

To the Appellant

The Second Respondent contends that the judgment of the Federal Court, being the judgment of his Honour Justice Lee of 15 April 2024, should be affirmed on grounds other than those relied on by the Court.

### Grounds relied on

#### Justification

1. The second respondent contends his Honour correctly found that the defence of justification had been established by the second respondent but also by reason of the following additional matters:
  - a. Having found Ms Higgins was significantly intoxicated, that the appellant was aware of her significant intoxication and that at the time of sexual intercourse Ms Higgins was passive "like a log", his Honour should have found that the appellant had knowledge of Ms Higgins' lack of consent at the time of intercourse.

{NRS/S2558721:1}

Filed on behalf of (name & role of party)	<u>Lisa Wilkinson, Respondent</u>
Prepared by (name of person/lawyer)	<u>Anthony James Jefferies</u>
Law firm (if applicable)	<u>Gillis Delaney Lawyers</u>
Tel <u>61 2 9394 1144</u>	Tel <u>61 2 9394 1144</u>
Email <u>ajj@gdlaw.com.au; dec@gdlaw.com.au</u>	
<b>Address for service</b> (include state and postcode)	<u>Level 40, 161 Castlereagh St Sydney, New South Wales, 2000</u>

[Form approved 01/08/2011]

- b. His Honour in assessing whether the second respondent had established that the appellant had raped Ms Higgins was required to consider the natural and ordinary meaning of rape, which included the ordinary person's understanding of the concept of knowledge of lack of consent as at the date of publication (see [568]), and failed to do so at Judgment [591].
- c. His Honour erred in assessing Ms Higgins' credibility in preferring Ms Fiona Brown's evidence over Ms Higgins (a matter that his Honour considered to be notable in relation to Ms Higgins' credit [210]) without regard to contemporaneous records and other independent evidence from witnesses whose evidence was accepted without qualification that corroborated Ms Higgins' evidence where it conflicted with Ms Brown's.
- d. His Honour's findings as to consciousness of guilt at Judgment [613]-[619].

**Section 30 – qualified privilege**

- 2. If the Court upholds the appeal in relation to justification, the second respondent contends that his Honour should have found that the second respondent had established her defence under s30 *Defamation Act 2005* (NSW), in that:
  - a. His Honour erred by proceeding only on the alternative basis that none of Ms Higgins' claims in the broadcast giving rise to the defamatory meanings about the appellant's conduct had been proved true (as opposed to only certain aspects of those claims) in making the factual findings in the alternative adverse to the second respondent in his evaluation of her s30 defence.
  - b. Having accepted as correct the respondents' construction of s30 at Judgment [919]-[921], his Honour erred generally in taking account into matters outside the scope of the relevant inquiry.
  - c. His Honour adopted an erroneous approach to fact finding in Judgment [763]-[766] in respect of unchallenged testimonial evidence in suggesting that that evidence could be rejected without a denial of procedural fairness in circumstances other than when the evidence was inherently incredible, and therefore rejected unchallenged testimonial evidence from the second respondent and others that supported the reasonableness of her conduct.
  - d. The reasonableness of the second respondent's conduct in publishing each of the matters was supported by the following circumstances found by his Honour:

{NRS/S2558721:1}

- i. that Ms Wilkinson was never in doubt about Ms Higgins' account as found at Judgment [787]; and
  - ii. that Ms Wilkinson did rely in performing her work upon trusted and experienced producers and reposed confidence in the expertise of each of producers named at Judgment [946] in supervising and approving the work undertaken.
- e. His Honour erred generally in relation to s30 in failing to have regard to all of the circumstances including by failing to give sufficient or any weight to:
- i. the second respondent's unchallenged experience with sexual assault survivors and her assessment, in meeting or talking with Ms Higgins on multiple occasions, of her credibility based on that expertise;
  - ii. the second respondent's knowledge, corroborated independently from Ms Higgins by the time of broadcast, that Ms Higgins had made contemporaneous complaint in 2019 of sexual assault to her employer, the Australian Federal Police and a rape crisis councillor;
  - iii. the second respondent's evidence that she relied upon her knowledge of the statutory declaration to reinforce her opinion of the honesty of Ms Higgins;
  - iv. the fact that the appellant was not named, was not a public figure and thus was only potentially identifiable to a limited number of persons;
  - v. the second respondent's unchallenged evidence that the content, manner and timing of any communication with the appellant was not something within her power or control in her role as an employee of the first respondent;
  - vi. the second respondent's belief that the appellant had in fact been notified of the intended broadcast and allegations on the Friday before broadcast and believed that he had been given a proper opportunity to respond to those allegations, or be interviewed;
  - vii. the second respondent's belief of the appellant's notice of the broadcast from advertisements throughout the day such that he would contact The Project if he wanted to respond such that she was preparing questions that day anticipating he could give an interview.

{NRS/S2558721:1}

- f. His Honour erred by finding at Judgment [962] that the second respondent had ignored warning signs and not taken obvious steps in publishing the defamatory matter about the appellant without identifying how that affected the credibility and reliability, in light of well-known effects on trauma, of Ms Higgins' allegations against the appellant that carried the defamatory meaning.
- g. His Honour erred in dismissing at Judgment [950]-[951] the second respondent's reliance on her employer's systems to obtain legal advice, her belief in the competence and experience of those lawyers, her knowledge that the lawyers were intimately involved in all stages of the publication, and her experience that those lawyers were the most conservative she had experienced in her lengthy career because the Court did not have detail of that advice, in circumstances where it was the second respondent's evidence she was she was not given the advice but knew it was being given and knew that the producers or executive producers had received the advice.
- h. His Honour's failure to distinguish between conduct and decisions made by the first respondent as opposed to the second respondent in assessing the defence at Judgment [795]; [811]-[812]; [843]-[848]; [849]-[851]; [872]-[874]; [880]-[884]; [886]-[888]; [890]-[897], despite relying on (at Judgment [963]) largely the same reasons for both respondents.
- i. His Honour erred in finding at Judgment [946]-[947] despite the second respondent's assigned role that she did not have a sufficient basis to conclude that sufficient work was undertaken based on a conversation she had with Ms Higgins almost three weeks before broadcast.
- j. His Honour erred at Judgment [949] in dismissing the second respondent's reliance on Mr Llewellyn, despite her unchallenged evidence as to her knowledge and experience of his professionalism and experience.
- k. His Honour erred in making findings in relation to the "bruise photo" in respect of the second respondent that:
  - i. at Judgment [803]-[804], [810], [813], the second respondent understood she was told there was a second photograph (a matter never put to her);
  - ii. at Judgment [803]-[806], [810], [813], Mr Llewellyn understood he was told there was second photograph (a matter he did not accept); and

{NRS/S2558721:1}

- iii. failed to have regard to Ms Wilkinson's evidence that she had further discussions about the reliability of the "bruise photo" and was informed that the issue had been addressed.
- I. His Honour erred at Judgment [830], [831], [833] in respect of the second respondent by failing to take into account the unchallenged evidence from the second respondent that:
    - i. Ms Higgins' allegations and the broadcast were subject to review and approval by numerous producers and executives of the first respondent before broadcast (corroborated by unchallenged evidence from multiple witnesses employed by the first respondent); and
    - ii. she understood that Mr Llewellyn and others undertook extensive factual checking, review and decision making before the broadcast.
  - m. His Honour erred at Judgment [836] in failing to have regard to the other inquiries carried out by Mr Llewellyn, to the second respondent's knowledge, including:
    - i. extensive questions to relevant persons prior to publication which responses corroborated many of Ms Higgins' claims or otherwise did not contradict them;
    - ii. a further interview with Ms Higgins verified by statutory declaration; and
    - iii. having other persons within the first respondent and The Project, including experienced lawyers, review and assess the allegations for credibility.
  - n. His Honour erred at Judgment [838]-[842], in taking into account his personal opinions about constitutional arrangements relating to Parliamentary policing in judging the state of mind, conduct and therefore the reasonableness of the respondents.
  - o. His Honour erred at Judgment [842] in finding that the second respondent did not ascertain or appreciate when and why Ms Higgins put a stop to the investigation and the availability of the CCTV footage.
  - p. His Honour erred at Judgment [858]-[860] in failing to have regard to evidence that further questions about the iPhone there referred to, were included in draft questions that the second respondent may have been responsible for before her employer, the first respondent, decided what questions would be asked.

{NRS/S2558721:1}

- q. His Honour erred at Judgment [861] in making findings about the second respondent despite the fact that she was directed by her employer, the first respondent, not to have any direct engagement with Ms Higgins about the broadcast.
- r. His Honour erred at Judgment [868] in finding that the second respondent understood the purpose of the questions based on her evidence when she rejected that proposition in that evidence.
- s. His Honour erred at Judgment [870]-[871] in finding the appellant did not receive at least one of the communications seeking a response.
- t. His Honour erred at Judgment [875]-[878] in placing reliance on what his Honour conceived to be an inconsistency (which is not accepted) between the second respondent's understanding of Ms Higgins' allegations and the statement made by the Government.
- u. His Honour erred at Judgment [897], in conflating information that was available to the Court and information that was available to the respondents at the time of broadcast.
- v. His Honour erred at Judgment [898], in:
  - i. conflating information the second respondent had at the time of broadcast with the evidence before the Court;
  - ii. misconstruing the introduction to the broadcast; and
  - iii. finding there was no reasonable basis for the second respondent's belief.
- w. His Honour erred at Judgment [938], in carrying out the evaluative assessment required under s30 by taking into conduct for which the second respondent was not responsible but rather may have been present during or otherwise aware of.
- x. His Honour erred at Judgment [954]-[956], in taking into account the second respondent's perceived personal opinions and lack of independence motivating her participating in the publication as relevant to the evaluation of whether her conduct in publishing the allegations about the appellant was reasonable.
- y. His Honour erred at Judgment [956]-[959], as to the evidence of the information the second respondent had before broadcast.

{NRS/S2558721:1}

- z. By reason of the above matters the defence should have been found to have been established by the second respondent.

**Damages**

- 3. If the Court will enter judgment for the appellant and finds the provisional assessment of damages by his Honour against the second respondent is in error and should be reassessed, the second respondent contends that his Honour erred in finding at Judgment [1052] that the second respondent's conduct was improper and unjustifiable.

This notice of contention was prepared by Sue Chrysanthou SC and Barry Dean, barrister.

Date: 19 June 2024



---

Signed by Anthony Jefferies  
Solicitor for the Respondent

**Schedule**

<b>Appellant</b>	Bruce Emery Lehrmann
<b>First Respondent</b>	Network Ten Pty Limited
<b>Second Respondent</b>	Lisa Wilkinson



**Annexure Certificate**

**“ZB4”**

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

No. NSD701 of 2024

**BRUCE LEHRMANN**

Appellant

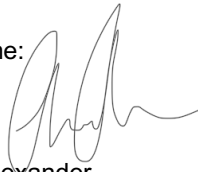
**NETWORK TEN LTD LIMITED ACN 052 515 250 and another**

Respondents

**This is the annexure marked “ZB4” produced and shown to Zali Burrows at the time of affirming her affidavit on 1 August 2024**

Annexure “ZB4” being copy of the First Respondents Notice of Contentions filed on 21 June 2024

Before me:



Eanna Alexander

## NOTICE OF FILING

### Details of Filing

Document Lodged: Notice of Contention - Form 124 - Rule 36.24  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 21/06/2024 2:32:37 PM AEST  
Date Accepted for Filing: 21/06/2024 2:32:42 PM AEST  
File Number: NSD701/2024  
File Title: BRUCE LEHRMANN v NETWORK TEN PTY LIMITED ACN 052 515 250  
& ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*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 124  
Rule 36.24



## Notice of contention

No. NSD701 of 2024

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

**BRUCE LEHRMANN**  
Appellant

**NETWORK TEN PTY LIMITED ACN 052 515 250**  
First Respondent

**LISA WILKINSON**  
Second Respondent

To the Appellant

The First Respondent contends that the judgment of the Federal Court of Australia dated 15 April 2024 should be affirmed on grounds other than those relied on by the Court.

The First Respondent does not seek to cross-appeal from any part of the judgment.

### Grounds relied on

1. The primary judge ought to have found that the Appellant knew that Ms Higgins did not consent to having sex, contrary to the finding at [591] of *Lehrmann v Network Ten Pty Ltd* [2024] FCA 369 (**Primary Judgment**).
2. The primary judge ought to have found that, if it had been necessary to assess damages in favour of the Appellant, the appropriate award was no or nominal damages, contrary to the finding at [1090] of the Primary Judgment.

Date: 21 June 2024

A handwritten signature in blue ink, appearing to read 'Marlia Saunders', written over a horizontal line.

Signed by Marlia  
Lawyer for the First Respondent

---

Filed on behalf of (name & role of party) The First Respondent  
Prepared by (name of person/lawyer) Marlia Saunders  
Law firm (if applicable) Thomson Geer  
Tel 02 8248 5800 Fax 02 8248 5899  
Email msaunders@tglaw.com.au

---

**Address for service** Level 14, 60 Martin Place  
(include state and postcode) Sydney NSW 2000

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[Form approved 01/08/2011]

Legal/87021330\_3

**Annexure Certificate**

**“ZB5”**

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

No. NSD701 of 2024

**BRUCE LEHRMANN**

Applicant

**NETWORK TEN LTD LIMITED ACN 052 515 250 and another**

Respondents

**This is the annexure marked “ZB5” produced and shown to Zali Burrows at the time of affirming her affidavit on 1 August 2024**

Annexure “ZB5” being copy of Email from the First Respondent attaching Bankruptcy Notice BN272060

Before me:



Euan Alexander

**From:** Stuart McKenzie <Stuart.McKenzie@cbp.com.au>  
**Date:** 24 July 2024 at 4:23:21 PM AEST  
**To:** [REDACTED]  
**Cc:** Stuart McKenzie <Stuart.McKenzie@cbp.com.au>  
**Subject:** Bruce Lehrmann & Network Ten Pty Limited [CBP-ACTIVE.FID3438241]

Dear Sir,

We act for Network Ten Pty Limited.

We **attach**, by way of service, a Bankruptcy Notice issued on 23 July 2024.

Kind regards,

**Stuart McKenzie**  
Partner

Colin Biggers & Paisley Pty Ltd  
ABN 28 166 080 682  
Level 42, 2 Park Street Sydney NSW 2000 Australia  
D +61 2 8281 4492 | M +61 434 636 011 | F +61 2 8281 4567  
[stuart.mckenzie@cbp.com.au](mailto:stuart.mckenzie@cbp.com.au)  
[www.cbp.com.au](http://www.cbp.com.au)

*If you have received this in error, we apologise and please advise us by reply email and then delete this and any attachment. If this email was not addressed to you then you may not use any of it: it may contain material that is confidential or covered by client legal privilege.*  
*Any views expressed are those of the individual sender, except where the sender expressly, and with authority, states them to be the views of this law practice. We deal with personal information in accordance with our privacy policy that appears on our website. If you have any concern please make yourself aware of that policy.*  
*Cybercrime and fraud are on the increase. If you receive something purporting to be from us with changes in the details of any account to which monies are to be sent, it is unlikely to be genuine. Our own bank account details are highly unlikely to ever change during the course of a transaction, and we will never notify bank details or any change only via email. Please check account details with us in person. If you receive any suspicious communication purporting to be from us please contact us in person immediately.*

**COLIN  
BIGGERS  
& PAISLEY**  
LAWYERS

Follow us  

**Bankruptcy Notice**  
BN272060(33507766.1).pdf  
43 KB



# Bankruptcy Notice

Bankruptcy Act 1966 Subsection 41(2)  
Bankruptcy Regulations 2021 Section 9

<b>To</b>	Title <b>Mr</b>	Given Name/s <b>Bruce</b>	Surname <b>Lehrmann</b>
<b>of</b>	Address [REDACTED]		Postcode [REDACTED]
<b>You are notified that:</b>			
Creditors name <b>Network Ten Pty Limited</b>		ABN / ACN <b>91 052 515 250 / 052 515 250</b>	
Address <b>1 Saunders St, PYRMONT, NSW, Australia</b>		Postcode <b>2009</b>	
<b>claim/s that you owe the following debt</b>			
1	Amount as per the accompanying final judgment/s or final order/s (note A)	<b>\$2,000,000.00</b>	
2	Add legal costs (note B)	<b>\$0.00</b>	
3	Add interest accrued since date of judgment/s or order/s (note C)	<b>\$0.00</b>	
4	Sub total (1 + 2 + 3)	<b>\$2,000,000.00</b>	
5	Less payments made and/or credit allowed since judgment/s or order/s	<b>\$0.00</b>	
<b>6.</b>	<b>TOTAL DEBT AMOUNT (4 - 5)</b>	<b>\$2,000,000.00</b>	

**Notes**

A. If an accompanying final judgment or final order is expressed in an amount of foreign currency you may pay the amount in that foreign currency or pay an equivalent amount in Australian dollars that has been calculated using the rate of exchange for the foreign currency published by the **Reserve Bank of Australia** (RBA) as at [REDACTED]

Foreign currency amount [REDACTED] X [RBA exchange rate] [REDACTED] = AUD \$ [REDACTED]

*Note: the above is in accordance with the Bankruptcy Regulations 2021 section 12*

B. Where legal costs are being claimed (and a specific amount was not included in the judgment/s or order/s) a certificate of taxed or assessed costs in support of the amount claimed is attached

C. Where interest is being claimed the provisions under which it is claimed and the basis of its calculation are shown in the accompanying interest schedule if no interest is claimed the creditor need not provide the schedule with this notice

Bankruptcy Notice continuing over page...

1. You are required, within **21 days** after service on you of the Bankruptcy Notice, to either:

- (a) pay to the creditor the amount of the debt claimed; or
- (b) make arrangements to the creditor's satisfaction for settlement of the debt.

*Note: a Bankruptcy Notice served in Australia must be complied with within 21 days after service. The Court may fix a different time for compliance where it gives leave to serve a Bankruptcy Notice outside of Australia.*

2. Payment of the debt can be made to:

**Network Ten Pty Limited**  
1 Saunders St, PYRMONT, NSW 2009, Australia

**Email: LegalNotices@networkten.com.au**

3. **Bankruptcy proceedings may be taken against you if, within the time stated in paragraph 1 above, you do not comply with either paragraph 1(a) or 1(b), and the Court (that is, the Federal Court of Australia or the Federal Circuit Court of Australia) does not extend the time for compliance with this Bankruptcy Notice** (see paragraph 4 below).

4. **Applying to extend the time for compliance:** You may apply to the Court, within the time stated in paragraph 1 above, for an extension of time for compliance with this Bankruptcy Notice on the grounds that:

- (a) you have instituted proceedings to set aside the judgment/s or order/s in respect of which this Bankruptcy Notice has been issued; and/or
- (b) you have filed with the Court an application to set aside this Bankruptcy Notice (on grounds other than those set out in paragraph 5 below).

5. **Applying to set aside the Bankruptcy Notice:** You may apply to the Court, within the time stated in paragraph 1 above, for an order that this Bankruptcy Notice be set aside on the grounds that you have a counter-claim, set-off or cross demand, equal to or exceeding the amount claimed in this Bankruptcy Notice, and you could not have set up that counter-claim, set-off or cross demand in the action or proceeding in which the judgment or order in respect of which this Bankruptcy Notice has been issued was obtained.

6. **You should note the following points carefully:**

- (a) if you apply to the Court for an extension of time to comply with this Bankruptcy Notice (see paragraph 4 above), and the Court has not granted any extension before the expiration of the time stated in paragraph 1 above, you must still comply with this Bankruptcy Notice within the time stated;
- (b) **however**, if you have applied to the Court to set aside this Bankruptcy Notice on the grounds set out in paragraph 5 above, you need not comply with this Bankruptcy Notice before the Court decides on your application. Whether you have to comply with the Bankruptcy Notice after this time will depend on the Court's decision.

7. If you make an application to the Court, the creditor will accept service of legal documents at:

**Colin Biggers & Paisley Lawyers**  
L 42 2-26 Park St, SYDNEY, NSW 2000, Australia  
**Phone: 8281 4492**  
**Email: stuart.mckenzie@cbp.com.au**

### WARNING

**THIS BANKRUPTCY NOTICE IS AN IMPORTANT DOCUMENT. THE INFORMATION IT CONTAINS IS BASED ON PROVISIONS OF THE *BANKRUPTCY ACT 1966* (THE ACT). THE INFORMATION IS A SUMMARY ONLY AND NOT A COMPLETE STATEMENT OF THE LAW. IF YOU REQUIRE A MORE DETAILED EXPLANATION, OR ARE UNSURE WHAT TO DO AFTER READING THE NOTICE, YOU SHOULD SEEK LEGAL ADVICE.**

### Note to creditor about use of information

The information you provide on the Bankruptcy Notice may be included on a public record. It may also be disclosed to government agencies and departments, or other persons or bodies for purposes authorised by the Act.

### Issued by the Official Receiver when endorsed below

BN272060

issued 23 July 2024



**OFFICIAL RECEIVER**

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

No: NSD103/2023

**BRUCE LEHRMANN**  
Applicant

**NETWORK TEN PTY LIMITED ACN 052 515 250** and another named in the schedule  
Respondent

**ORDER**

**JUDGE:** JUSTICE LEE

**DATE OF ORDER:** 27 June 2024

**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

1. Pursuant to ss 23, 37P(2) and 43 of the *Federal Court of Australia Act 1976* (Cth), the orders made on 10 May 2024 be varied such that the costs payable by the applicant in favour of the respondents be quantified in a fixed sum and Order 3 made on 10 May 2024 be vacated.
2. Judgment be entered in favour of the first respondent in the amount of \$2,000,000 representing its costs of the proceedings.

Date that entry is stamped: 28 June 2024

  
Registrar



**Schedule**

No: NSD103/2023

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

Second Respondent      LISA WILKINSON

**CROSS CLAIM**

Cross-Claimant      LISA WILKINSON

Cross Respondent      NETWORK TEN PTY LIMITED ACN 052 515 250

**CROSS CLAIM**

Cross-Claimant      NETWORK TEN PTY LIMITED ACN 052 515 250

Cross Respondent      LISA WILKINSON