

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

Affidavit of: **Christopher Bendall**

Address: c/- 7PM Company Pty Ltd, Como Centre, Level 1, 620 Chapel Street, South
Yarra VIC 3141

Occupation: Executive Producer

Date: 28 July 2023

I Christopher Bendall of c/- 7PM Company Pty Ltd, Como Centre, Level 1, 620 Chapel Street, South Yarra VIC 3141, affirm:

1. I am the Executive Producer (**EP**) of The Project.
2. The Project is a nightly current affairs program broadcast by Network Ten Pty Ltd and its affiliates (**Network Ten**).
3. The matters set out in this affidavit are based on my own knowledge, except where I have stated or qualified otherwise. When I have set out my recollection of conversations in this affidavit I have included the effect of the words spoken as I recall them.
4. Where I refer to a document in this affidavit, that document was produced to me at the time of affirming this affidavit and verified by me as a true copy of the relevant document.

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




5. When I refer to the fact of provision of legal advice in this affidavit, I am not authorised to and do not waive privilege in respect of its content.

Work history

6. I am employed by 7PM Company Pty Ltd (**7PM**).
7. I have been a journalist for nearly 18 years.
8. According to the agreement between Network Ten and 7PM:
- (a) Network Ten is the producer of The Project; and
 - (b) 7PM provides production services.
9. In this context, "production services" means the bringing together of the various elements that go into producing a television broadcast. Put simply, it is the creation of the show, including all of the broadcast content.
10. I have worked in the following roles:
- (a) 2005 – 2012: Senior Producer, Today Show (Nine Network);
 - (b) 2012 – 2014: Head of Field Development (The Project);
 - (c) 2014 – 2015: Supervising Producer (The Project);
 - (d) 2015 – 2020: Series Producer (The Project);
 - (e) 2020 – March 2021: Co-EP (The Project); and
 - (f) March 2021 – present: EP (The Project).
11. My work email address is: [REDACTED]
12. I communicated extensively using my email account during February 2021 in relation to the broadcast of the story which is the subject of this proceeding. I understand that from around 2 February 2021 to 15 February 2021, I sent, received and was copied to a large number of emails about the production of this story. Those emails were on a number of production-related topics, including:
- (a) the development of the story; and
 - (b) the editing of the story.

- [REDACTED]
14. I communicated extensively using my mobile phone during the period of January and February 2021 in relation to the broadcast of the story which is the subject of this proceeding. From around 2 February 2021 to 15 February 2021, I made and received a large number of telephone calls with other members of the production team including



Network EP Sarah Thornton, Editorial Consultant Peter Meakin, Supervising Producer Laura Binnie and Producer Angus Llewellyn. [FRD.005.00000202]

The Project

15. I would describe The Project as a show that mixes news with entertainment.
16. Sometimes it can be comical and light. Other times, it tackles topics from a serious news perspective. For example, The Project has always had a particular focus on feature stories that are human interest stories and political stories.
17. As EP, I regard quality journalism as very important. The Project prides itself on the quality of its journalism.
18. Having worked on a number of different television programs in my 18 years as a television journalist and EP, I regard The Project's processes and procedures as exemplary.
19. Given the measures in place by The Project (and Network Ten) to ensure that stories are fair, accurate and legal, including the use of independent fact-checkers and lawyers throughout the production process, I believe this reflects in the high-quality journalism and stories we broadcast.

Commissioning of the story

20. In late January or early February 2021, I became aware that Lisa Wilkinson had been approached by David Sharaz about a story on behalf of his partner, Brittany Higgins. I was subsequently made aware that the story had been commissioned by EP of The Project, Craig Campbell. The story ultimately became the matter complained of in this proceeding.
21. Commissioning a story is the first step in the production process. At the point of being commissioned, someone is allocated to investigate, research and prepare that story. It is effectively a signal to the relevant producer, presenter or journalist that the commissioner believes the story is worth investigating and confirmation that they should go ahead and investigate it.
22. At the time the story was commissioned, Mr Campbell was the EP of the show and I was co-EP. Mr Campbell was my superior. Broadly speaking, my role as co-EP was similar to Mr Campbell's but he had ultimate control over the program.
23. Given the nature of this story and the fact Ms Wilkinson had taken it to Mr Campbell first, it was unsurprising and normal for him to have commissioned the story without consulting me. I was not involved in initial discussions about the story.
24. I learned this story had been commissioned during a meeting in Mr Campbell's office. I cannot now recall the precise date of the meeting, but I believe it was in late January. While I do not recall precisely what was said at the meeting, I believe Mr Campbell updated me



on the story and told me that Ms Wilkinson and Mr Llewellyn had been investigating it. I recall being told about the story because I appreciated that it was potentially a big story, but I did not expect I would play a big role in its development or production. This is because Mr Campbell was the EP who had commissioned it. I believe Myles Farley, an in-house lawyer at Network Ten, may also have been in Mr Campbell's office during this meeting and that others, including Ms Wilkinson, Mr Llewellyn, Ms Binnie and Ms Thornton may have been on the telephone.

25. It was apparent to me that Mr Campbell and Mr Llewellyn had already discussed the story and that, as a part of its commissioning, Mr Llewellyn had been allocated as the Producer to investigate and work on it. I assumed Mr Llewellyn would be working closely with Mr Meakin. Mr Meakin's role was, together with Ms Binnie, to oversee Mr Llewellyn's department and assist him and other producers with the development of stories such as this.
26. The purpose of the meeting was for Mr Campbell and Mr Llewellyn to brief me in my capacity as co-EP. I do not now recall precisely what was discussed at the meeting or the precise words that were spoken, but I recall having the impression that Mr Campbell thought it was a good story and he spoke very passionately about it. Mr Llewellyn and Mr Farley added their thoughts about the story, but I cannot now recall what they said. Given Mr Farley is an in-house lawyer who provides pre-publication and other legal advice to The Project, I understand his input in this meeting to be the subject of legal privilege.
27. During the meeting, I felt comfortable that Mr Llewellyn had been allocated to this story as its producer, that Ms Wilkinson would be its presenter and that Mr Llewellyn would be working closely with Mr Meakin. Mr Llewellyn is the show's most experienced producer and Ms Wilkinson was the show's most experienced presenter. Mr Meakin is one of the most experienced people in Australian television. His input and guidance are very important parts of The Project. I greatly value his input and guidance as EP of the program. I believe we are lucky to have someone of Mr Meakin's experience at The Project. At this time in February 2021, his role as Editorial Consultant was to act as an additional layer of support to producers and Ms Binnie. In effect, he played the role of both persons in this case: he was co-producer with Mr Llewellyn and co-Features Supervising Producer with Ms Binnie. It gave me a great deal of comfort when I first learned about the story that all of these people were involved.
28. On or around 11 February 2021, I began assuming the role and responsibilities of the sole acting-EP of The Project while Mr Campbell was away on sick leave.
29. This role was formalised weeks later in March 2021 with my appointment as EP.



30. As acting-EP, and now as EP, my roles and responsibilities are:
- (a) to be ultimately responsible for the production of everything that goes to air on The Project including by providing final "sign-off" for each episode;
 - (b) to curate, including in collaboration with others, the content covered by The Project and the way it is covered, including whether stories should be pursued, how they should be pursued and what resources should be dedicated to any story;
 - (c) to sign off on on-air talent used for stories; and
 - (d) to liaise with Network Ten editorial and legal employees about The Project and stories broadcast on the program, including ensuring that all necessary rights of reply, fact-checking and legal processes have been complied with.
31. As co-EP, my role was similar but ultimate responsibility for the program rested with Mr Campbell.
32. Generally speaking, the final sign off process is as follows:
- (a) For most stories, an advanced or 'final' script is prepared. This is prepared and circulated among the senior features team in the days leading up to broadcast. The senior features team in February 2021 included me, Mr Llewellyn, Mr Meakin, Ms Binnie and, to the extent he was not on leave, Mr Campbell.
 - (b) I am sometimes involved in the process of preparing the final script for a story. My involvement includes reading the script and considering it. If I have any comments, these will be fed back to the relevant producer or content manager, usually by having a conversation with that person.
 - (c) Once the final video product is prepared, I may review it, although final product sign-off is often conducted by Ms Binnie as the Features Supervising Producer. Sometimes I review it on my desktop computer. Other times I go into a suite at the studio to watch the program.
 - (d) As the editing process often runs right up until the time of broadcast, I rarely review the absolute 'final' version of a story before it goes to air. However, often changes at the end are relatively minor tweaks. If I am tasked with signing off a story, I will always review and sign off on the substantive content before it goes to air.
 - (e) As a general rule, I sign off on things orally. Sometimes I will send an email confirming sign off, but the nature of my job and the environment in which I work is such that oral sign off is all that is required.



Interview with Ms Higgins

33. At some point around the time of the meeting in Mr Campbell's office referred to in paragraphs 24 to 2725 above, I was told that Mr Llewellyn and Ms Wilkinson had met with Ms Higgins and Mr Sharaz.
34. At some point after this, I learned that Ms Wilkinson would conduct or had conducted an interview with Ms Higgins on camera.
35. I do not recall now precisely when or how I learned these things. My recollection is that the meeting in Mr Campbell's office occurred before Ms Wilkinson had conducted the interview with Ms Higgins.
36. The interview between Ms Wilkinson and Ms Higgins took place on 2 February 2021 (**Interview**) [FRD.001.00002652].

Decision not to name the alleged perpetrator

37. After I became involved in the story following the meeting in Mr Campbell's office and prior to the Interview, I was informed by one or more members of the team that a number of meetings had occurred and decisions had been made about the production of the story.
38. The most important decision that had been reached was that Bruce Lehrmann was not be named as the alleged perpetrator in the story. I was not involved in the making of that decision, but I agreed with it because we were telling Ms Higgins' story and trying to give her a voice. I do not recall there being any pushback from anyone involved in the production of the story with the decision not to name him.
39. Once I became involved, Mr Lehrmann's name was not used in any discussions within the production team. I do not recall how Mr Lehrmann was referred to amongst the production team, but I recall his seniority to Ms Higgins was a feature. To the best of my recollection Mr Lehrmann was referred to as a "senior male adviser" or Ms Higgins' "senior male colleague" or "senior colleague".
40. I did not know Mr Lehrmann's name during production and at the time the story was broadcast. I only found out his name after Mr Lehrmann was charged in around August 2021.

Interactions with Samantha Maiden and NewsCorp

41. When I was first told about this story, I was also told, in substance, that Ms Higgins wanted to do one print interview and one television interview at the same time. I believe Mr Llewellyn told me this in our meeting in Mr Campbell's office. I was informed that Ms Higgins would be doing a print interview with Samantha Maiden for news.com.au.



42. On or about 8 February 2021, I was informed in emails that Ms Maiden and News Corp would not be naming the alleged perpetrator either [FRD.001.00001701 and FRD.001.00002480].

Production process

43. In the days following the Interview, I was aware that a transcript of the Interview had been prepared. I was copied into emails about this but I do not recall reviewing the transcript at that time [FRD.001.00002652].
44. I am aware that, over the next few days, Mr Meakin, Mr Llewellyn and Ms Wilkinson worked closely together in turning the transcript into a draft script.
45. During the production process I was kept up-to-date of where the story was at by Mr Llewellyn, Mr Meakin and Mr Farley.
46. In particular, Mr Meakin and Mr Farley provided me with updates by phone or in-person conversations, which made me feel that I was across all of the developments in the story.

Confidentiality

47. Due to the very sensitive nature of the story, we put internal measures in place to ensure that the story was kept confidential within Network Ten and 7PM. The story needed to be treated this way because it involved serious allegations about an incident in a Minister's office at Parliament House after hours, the Government's handling of the incident, and former Government employees. I was concerned there was a risk of political interference or intervention if the story leaked prior to broadcast.
48. Examples of such measures are apparent from the email I received from Mr Campbell on 9 February 2021 at 7.54am. In that email, Campbell said:

"This story is now in the planning grid as ENVIRO.

Please do not refer or update the grid to reflect the true nature of the story.

Please note Sean is not on this list and is to be kept unaware of the story as is everyone else in our organisation." [FRD.001.00002686]

49. I understood this email to mean:
- (a) the story would not be stored on 7PM's or Network Ten's central databases accessible to all employees; and
 - (b) the story was given the codename "ENVIRO" as a way of preserving its confidentiality.
50. I was also aware that the production team working on the story was confined to a small group of people, which would have assisted in maintaining confidentiality over the story.



Fact checking

51. An important part of the production process is fact checking. It is normal for the producer, who on this story was Mr Llewellyn, to carry out the bulk of the investigation and fact checking in the lead up to a story being prepared for broadcast.
52. There is a dedicated fact checker at The Project who is employed to review the factual accuracy of matters included in scripts and edited versions of stories. Given the nature of this story, including that it was based on information provided by Ms Higgins, I understand that on this occasion the fact checking was undertaken by Mr Llewellyn and Ms Wilkinson who were in contact with Ms Higgins, as well as Mr Meakin and Ms Binnie, during the production of the story.

Attempts to seek comment

53. Another important part of the production process is seeking a response or comment from persons affected, or potentially affected, by a story. For example, where a person is named in a story or implicated by the subject matter of a story, we go to that person with the substance of the allegations against them so that they are given a chance to respond or provide comment for broadcast. Such persons would usually include the subject of a story where they were named and anyone directly affected by the subject matter of the story or potentially having relevant information about the story.
54. Seeking comment from affected persons is something that we always endeavour to do at The Project. Affording a person a right of reply is something I regard as an important ethical journalistic practice.
55. I recall having a number of discussions with Mr Llewellyn, Mr Meakin and Mr Farley about seeking comment from people in relation to this story. While I cannot now precisely recall when those discussions occurred or what exactly was said during them, I recall telling Mr Llewellyn, Mr Meakin and Mr Farley that I felt it was important that we went to affected, or potentially affected, persons for comment.
56. My principal concern was to ensure that we were seeking comment from the people we were naming in the story, for example Senator Linda Reynolds. I made this clear to Mr Llewellyn, Mr Meakin and Mr Farley when we discussed this issue.
57. As we were not naming Mr Lehmann in the story, I formed the view that there was less risk that he would be identified by the story. Despite the fact we were not naming Mr Lehmann, this did not mean I formed the view that we should not go to him for comment. I understood at the time that Mr Llewellyn was going to and did in fact seek comment from Mr Lehmann prior to broadcast.



58. I received emails on 11 February 2021 to the effect that Mr Llewellyn had prepared a list of the people to whom requests for comment would be made after midday on 12 February 2021 [FRD.001.00001797, FRD.001.00001798 and FRD.001.00000050]. I agreed with this decision. I felt like we were providing each person with a sufficient opportunity to respond given we were going to broadcast on Monday night. I am aware that legal advice was provided by Mr Farley in relation to the requests for comment.
59. I received various emails from Mr Llewellyn containing the comments that were provided by:
- (a) Andrew Carswell on behalf of the Federal Government;
 - (b) the Australian Federal Police;
 - (c) a spokesperson for Minister Michaelia Cash; and
 - (d) a spokesperson for Federal Parliament's Presiding Officers.
- [FRD.001.00000326; FRD.001.00002552; FRD.001.00001948; FRD.001.00000314; FRD.001.00000093; FRD.001.00000299]

Script and WIP Video Reviews

60. My involvement in reviewing the script was towards the end of the production process.
61. As is often the case, I became more involved in the production of the story the closer it was to being finalised and broadcast.
62. Once I reviewed the script, I provided some commentary on things I thought worked well and things I thought we could improve, but this was minimal. The production of the story was fairly straightforward in that it followed our general processes.
63. However, because the story was so significant, it was more collaborative than usual. I was involved in back-and-forth conversations between Mr Llewellyn, Ms Wilkinson and Mr Meakin during the production process, most of which were over the telephone or by Zoom.
64. Ms Wilkinson was quite involved in those discussions, given the nature of the story and what it obviously meant to her as the person who had met and interviewed Ms Higgins. I do not now recall each occasion that we met to discuss the draft script or WIP video.
65. I am aware that Mr Llewellyn or Mr Meakin, or both of them together, had one master version of the draft script, which was in a Google document.
66. When the script was in a well-advanced or progressed state, the script and versions of the work-in-progress (WIP) video were provided to me and the rest of the production team for review. The WIP video is a working version of the story that is developed and edited as the story is being produced.



67. I reviewed the script or the WIP video on a number of different occasions. I estimate that I would have reviewed either the script or the WIP video, or both, at least six times during the production process.
68. At 12.42pm on 9 February 2021, I received an email from Mr Llewellyn containing links to draft versions of the script and a WIP video for what was to be the first of the story's three parts [FRD.001.00000263].
69. At 4:14pm on 9 February 2021, I received an email from Mr Llewellyn containing a link to the WIP video for the second part [FRD.001.00000968 and FRD.001.00000264].
70. I cannot recall if I opened all of these links but I believe that at a minimum I would have watched the WIP videos for parts one and two of the story.
71. At 12.38am on 11 February 2021, I received an email from Editor Darryl Brown containing links to further draft versions of the script and WIP videos for the story [FRD.001.00001769]. I believe I watched these WIP videos at or around the time I received them.
72. At 5.23pm on 11 February 2021, I received an email from Mr Brown containing links to further draft versions of the script and WIP videos for the story [FRD.001.00001806]. I believe I watched these WIP videos at or around the time I received them.
73. Shortly after watching the first WIP video of the story, I formed the opinion that Ms Higgins was credible and someone of high integrity. I formed this view because:
- (a) I found her recollection of what had happened to her consistent and compelling;
 - (b) I had been shown other evidence supporting Ms Higgins' allegations, including the photograph of a bruise that she said was taken just after the alleged assault. I do not recall who showed me this photograph. I felt this photograph added to the likelihood of her account as being true. I do not recall what other evidence I saw but I believe I was provided with other examples or instances of supporting material;
 - (c) I felt she had nothing to gain by recounting what had happened to her. I felt her coming forward would have a severely negative impact on her career;
 - (d) I did not identify any inconsistencies in Ms Higgins' story on all of the versions of the draft story that caused me concern;
 - (e) I understood that Ms Higgins had sworn a statutory declaration to the effect that everything she had said during the Interview was true and correct; and
 - (f) I was not told by Mr Llewellyn, Mr Meakin or any other member of the production team that there was other material available to us that contradicted Ms Higgins' account.



74. Regarding Ms Higgins' statutory declaration referred to above, I do not recall how I became aware of this and I did not review the statutory declaration. I expect I was told about this by a member of the production team or Mr Farley. Obtaining statutory declarations from people we interview is very common at The Project. We do it on most stories that are (or seem) contentious. I feel it is an appropriate and reasonable measure. It helps us satisfy ourselves that what we have been told is true and credible. This story is an example of this. From the time I was first told about Ms Higgins' allegations I assumed if we were going to broadcast her story, she would swear a statutory declaration swearing to the truth of what we had been told. The fact Ms Higgins swore a statutory declaration helped inform my belief that Ms Higgins was credible.

Segment length

75. An important decision I needed to make as EP was how long to run the segment for.
76. Ordinarily segments on The Project run between 4 to 6 minutes.
77. This segment ran for nearly 30 minutes, across 3 blocks intersected by advertisements.
78. This was an unprecedentedly long segment for The Project to broadcast.
79. Mr Campbell and I made the decision to "run it long". I do not recall when this decision was made. I had a number of discussions with Mr Campbell, Mr Meakin, Mr Llewellyn, Ms Wilkinson and others about it and I decided that it needed to be run for an extended period across the three parts of the show. I made that decision so that the story could be told the way I thought it needed to be, namely by not only including the information Ms Higgins had provided during her interview about having been raped in a Minister's office in Parliament House, but also the way in which the reporting of that allegation had been handled by the Government and the treatment of Ms Higgins.

Duty of care to and concern towards Ms Higgins

80. In the lead up to 15 February 2021, I had a number of conversations about Ms Higgins' mental health and wellbeing. This was a key concern for me and the rest of the team working on the story. I recall the concern was driven by Mr Llewellyn who was very proactive about protecting Ms Higgins' wellbeing during this process.
81. I had a number of discussions with Mr Llewellyn and Ms Thornton about this issue.
82. I cannot now recall each of the occasions we discussed this, only that it was something that I was concerned about, and that I assessed Mr Llewellyn, Ms Thornton and others to be concerned about too. I was supportive of Network Ten supporting Ms Higgins in any way it could.



83. At 3.35pm on 5 February 2021, I was copied to an email from Mr Llewellyn which described Ms Higgins as "quite fragile" at the moment. Mr Llewellyn's email also said Ms Higgins would need lots of notice that the story was going to be broadcast [FRD.001.00001668].
84. At 10.30am on 10 February 2021, I received an email from Mr Llewellyn which reinforced the need for us at The Project to look out for the health and wellbeing of Ms Higgins [FRD.001.00001747].
85. I am aware that Mr Llewellyn took steps during the production process to provide mental health support for Ms Higgins. I was not involved in the process of actually arranging this support for Ms Higgins but was kept up-to-date about the steps that had been taken [FRD.001.00000419, FRD.001.00001173, FRD.001.00000734].
86. This story, perhaps more than any other I have been involved in, required me to be alive to the health issues of everyone involved, not just Ms Higgins, but also Mr Llewellyn and Ms Wilkinson. This was, and remains, the most significant and complex story that has run on The Project in my time working on the program, and I was aware from my involvement in producing the story and observations I made at the time, that Mr Llewellyn and Ms Wilkinson in particular had conducted a very emotional interview with Ms Higgins and were both spending considerable time in producing the story.

Timing of the story

87. I was also in charge of deciding when the story would run. In this instance, that meant I made the decision to accept a pre-arranged air-date that have been previously agreed with Ms Maiden.
88. As we had an exclusive television interview with Ms Higgins, we did not want it to leak and break on another rival network. The desire to retain exclusivity of this story was a factor in us implementing strict confidentiality controls and processes around who had access to this story. However, the desire for exclusivity did not mean we rushed the production of the story. The story was published as soon as it was ready.
89. Ms Wilkinson wanted the story to run on a Sunday night. This was my preference too.
90. On or around 10 February 2021, I had a telephone call with Ms Maiden about this. Ms Maiden told me, in substance that running the story in a Sunday night was not the arrangement she had agreed with The Project, and that the story would need to run on Monday, 15 February 2021.
91. As I was not involved in the initial discussions with Ms Maiden on this, I agreed to broadcasting the story in the evening on 15 February 2021. The agreement was that Ms Wilkinson's interview with Ms Higgins would run on television after Ms Maiden's article had been published online on news.com.au on the Monday morning.



Further Script and WIP Video Reviews

92. As described above, I estimate that in the lead-up to 15 February 2021, I watched the various edits, or versions of the segment approximately six or so times. This was a large number of times for me to watch a segment prior to broadcast. I did so given my belief in the obvious public interest in the story and my desire for it to be as fair and accurate as possible.
93. I believe I watched the different versions on my desktop since Mr Llewellyn and Mr Brown were working remotely at the time and circulated the WIP videos as Vimeo links. I also read draft scripts as Google Documents.
94. From the first version I saw, I was impressed with the level of detail and production value of the story.
95. I cannot now recall what feedback I provided after each review. I would have provided feedback to Mr Llewellyn and Mr Meakin over the telephone at or shortly after I reviewed the script and WIP video because that is how I normally give feedback on a draft script or WIP version of a story to the production team.
96. From the first time I viewed a draft version of the story, I thought that the biggest issue we had was deciding who to name. For example, there were a number of discussions with Mr Meakin and Mr Llewellyn about whether we should name Fiona Brown, who was Ms Higgins' then-boss, and Yaron Finkelstein, who worked in Prime Minister Scott Morrison's office, who Ms Higgins' claimed had, in various ways, covered up or stymied her complaint.
97. As acting-EP, each time I reviewed the script of a WIP version of the segment, I was not just looking at the quality of the journalism, but also the production quality of the whole package, including things like the music, video grading, sound quality and video editing. As both acting-EP and EP, this is a big part of my job. It is not just about the actual content of a story or segment, but whether it looks and feels like a segment that viewers would expect from The Project.
98. Any edits I proposed were largely cosmetic, by which I mean that they were not edits to the substance of the story or content per se, but were edits to the video which refined things like the music, video grading, sound quality and video quality. I do not recall making any specific or substantive changes to the first version of the WIP video that I watched, the subsequent versions that I watched or the final version which went to air on 15 February 2021.
99. At 1.37am on 13 February 2021, I received an email from Mr Brown containing links to further draft versions of the script and WIP videos for the story [FRD.001.00001024]. I believe I watched these WIP videos over the weekend.



100. At 3.02pm on 15 February 2021, I received an email from Mr Llewellyn containing links to further WIP videos for parts one and two the story [FRD.001.00001955]. I believe I watched these WIP videos. I received a further email from Mr Llewellyn at 3.48pm on 15 February 2021 containing a WIP video for part three of the story [FRD.001.00001960]. I believe I watched this video too.
101. At 3.08pm on 15 February 2021, I received an email from Ms Binnie advising me that she had prepared a brief with all of the scripts for the segment [FRD.001.00000340]. I reviewed this brief and the scripts.
102. At 4.06pm on 15 February 2021, I received an email from Mr Llewellyn containing links to further WIP videos the story [FRD.001.00002557]. I believe these were the same links that I had been provided with earlier, and that I watched these three videos.
103. During the late afternoon of 15 February 2021, I received emails from Mr Llewellyn and other members of the production team containing final or last-minute edits to the segment.
104. These final edits related to things like voiceovers and openings.
105. These edits were finalised very late in the process because of the evolving nature of the story. As Ms Maiden and News Corp had broken their print, or online, version of the story in the morning on 15 February 2021, there were a lot of things said throughout the course of the day by politicians and other senior political figures which provided additional context and content for our broadcast. The final edits included incorporating such commentary into the segment.
106. I believe Mr Llewellyn was in charge of reviewing these comments and assessing whether some or any of them should be included in our broadcast.
107. I had multiple conversations with Mr Llewellyn, Mr Meakin and Ms Binnie about the story and the development of the events in Parliament House throughout the day and was copied into emails with revised wording to incorporate these comments [see, eg, FRD.001.00000365; FRD.001.00000374; FRD.001.00000378; FRD.001.00000392].

Final Review and Sign off

108. Having reviewed the script and WIP videos so many times, and having been kept up to date by Mr Llewellyn, Mr Meakin, Ms Binnie and Mr Farley, at the time the segment was broadcast on 15 February 2021 I was satisfied that it accurately recorded the information that Ms Higgins had provided during the Interview and public comments that had been made in response to requests made by 7PM/Network Ten and in response to Ms Maiden's story earlier in the day. I was also satisfied that nothing had been omitted from the broadcast



that was material to the fair and accurate reporting of the information provided by Ms Higgins.

109. I watched the final version of the story in an editing suite at The Project's set in Melbourne.
110. I watched this version, being the version that went to air, just before it was broadcast to the public at around 7.00pm on 15 February 2021.
111. In my view, any story involving the federal government, especially Ministers and Senators and their offices, is in the public interest. The allegation that a woman could have been raped in Australian Parliament House, supposedly one of the most secure buildings in the country, spoke more broadly to the issues of how women are treated in society and in the running of parliament.
112. During my final review of the story, I formed the view that:
- (a) the story was very much in the public interest and should be broadcast;
 - (b) Mr Lehmann was not being identified to the general public in the story;
 - (c) Mr Lehmann may have been identified to a limited number of people who worked with him and Ms Higgins in Senator Reynolds' office; and
 - (d) all reasonable journalistic steps had been taken in terms of verifying the story, ensuring it was accurate and issuing requests for comment.

113. I formed these views based on my involvement in the production of the story as set out above.

114. Having formed these views, I confirmed that we should broadcast the segment.

Legal advice

115. A key feature of our work on The Project is the involvement and interaction we have with Network Ten's lawyers.
116. Mr Farley, Senior Legal Counsel at Network Ten, is employed by the network but works with us at The Project on a daily basis. He is ordinarily our main point of contact for pre-publication legal advice. We also sometimes obtain legal advice from other lawyers at Network Ten, including Tasha Smithies, Senior Litigation Counsel. Network Ten's lawyers are usually available 24/7 to provide pre-publication legal advice.
117. As we work with Network Ten's lawyers every day, we have strong working relationships. We regularly communicate over email, telephone and face-to-face.
118. In my 18 years as a journalist I have learned about legal risk. As EP, it is a feature of my job to spot legal risks and seek legal advice where appropriate.



119. Generally speaking, as a process:
- (a) legal advice is often sought before a story is investigated or commissioned. This advice informs us what the legal risks are and assists us in deciding at an editorial level whether or not we will proceed with the story;
 - (b) legal advice is usually sought and provided during the production of a story;
 - (c) obtaining legal advice about a story is one of the final steps that we take prior to broadcast. Once the editing of a story is finalised, legal advice is sought; and
 - (d) usually with the benefit of having considered that advice, the story is signed off by me.
120. In relation to this story, I understood when I became involved that Network Ten's in-house lawyers had been involved in advising on this story since shortly after the story was commissioned by Mr Campbell. This is not unusual for a big story like this.
121. Mr Farley was involved in providing legal advice on the story shortly after it was commissioned.
122. Ms Smithies was also involved in providing legal advice on the story from the outset. I was also aware that Ms Smithies had sat in on and watched the Interview between Ms Higgins and Ms Wilkinson.
123. Ms Smithies and Mr Farley were sent the various WIP versions and scripts of the story for review.
124. The final version of the story was sent to Ms Smithies for pre-publication legal advice on 15 February 2021 prior to broadcast.
125. In relation to this story, I was copied into and received a large number of emails between 8 February 2021 and 15 February 2021 which I understand to be the subject of legal professional privilege.
126. Prior to broadcast, I believed that the decision not to name Mr Lehrmann meant that the risk of him suing for defamation was considerably lower. That is not to say I understood there to be no legal risk with the story. I knew that even though we were not naming Mr Lehrmann, there were still some features in the segment which I realised might identify him to a small group of people who already knew those things. However, I was not concerned there was anything in the broadcast that could identify Mr Lehrmann to the general public.
127. Even though I regarded the legal risk as lowered, I still sought and obtained legal advice from Mr Farley and Ms Smithies throughout the process because I believe that to be an important part of our process and procedure at The Project.

Post-Broadcast

128. At 7.52pm on 15 February 2021, I sent an email to the team who had worked on the story which said:

"Hi all – a huge congratulation to the Canberra Story team – Lisa, Angus, Pete, Daryl, Laura, Myles, Mike and Tasha.

An outstanding piece of journalism and storytelling. Well done." [FRD.001.00000400]

129. While there was a great deal of activity in the lead up to broadcast, the post-broadcast period was frantic. I did not predict the size of the impact that this story would have. The impact on politics, Canberra and the Government was profound.

130. On 7 August 2021, after Mr Lehrmann was charged, I sent emails directing that the segment be taken down from Network Ten's online platforms and archived [FRD.004.00000295 and FRD.001.00000792].

Affirmed by the deponent
at South Yarra
in Victoria
on 28 July 2023
Before me:

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Signature of deponent


Signature of witness

Myles Edwin Finlayson Farley
Level 4, 620 Chapel Street, South Yarra 3141 Victoria
An Australian legal practitioner within the meaning of
the Legal Profession Uniform Law (Victoria)