

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 21/05/2021 11:46:22 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)  
File Number: NSD426/2021  
File Title: JOANNE ELIZABETH DYER v SUE CHRYSANTHOU & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 24/05/2021 2:26:58 PM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

### Important Information

As required by the Court's Rules, 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 and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 59  
Rule 29.02(1)

**Affidavit**

No. NSD426 of 2021

Federal Court of Australia  
District Registry: Sydney  
Division: General

**Joanne Elizabeth Dyer**

Applicant

**Sue Chrysanthou SC**

First Respondent

**Charles Christian Porter**

Second Respondent

Affidavit of: **Michael David Bradley**  
Address: Level 4, 343 George Street, Sydney, NSW 2000  
Occupation: Managing Partner, Marque Lawyers  
Date: 21 May 2021

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3	Annexure “MDB-7”, being a copy of Ms Chrysanthou’s email sent on 15 March 2021 and Mr Bradley’s response.	[4]	10 - 11

Filed on behalf of (name & role of party) Joanne Elizabeth Dyer, Applicant  
Prepared by (name of person/lawyer) Nathan Mattock  
Law firm (if applicable) Marque Lawyers  
Tel (02) 8216 3000 Tel (02) 8216 3000  
Email nathanm@marquelawyers.com.au  
**Address for service** Level 4, 343 George Street, Sydney NSW 2000  
(include state and postcode)

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4	Annexure “MDB-8”, being copies of Mr Bradley’s email to Ms Chrysanthou sent on 24 March 2021 and her reply.	[10]	12 - 13
5	Annexure “MDB-9”, being copy of Mr Nicholas Owens’ email sent on 25 March 2021.	[11]	14 - 15
6	Annexure “MDB-10”, being copy of Mr Bradley’s email sent on 29 March 2021.	[12]	16- 17

I affirm:

- 1 I am the Managing Partner of Marque Lawyers, the solicitors on the record for Ms Joanne Dyer, the applicant in these proceedings. I am a solicitor of the Supreme Court of New South Wales.
- 2 I have previously affirmed an affidavit in these proceedings on 10 May 2021 (**First Affidavit**).

#### **Video conference on 28 January 2021**

- 3 At paragraph 22 of my First Affidavit, I deposed to having a “telephone conference” with Ms Chrysanthou, Mr Richardson, Ms Dyer and Mr Hooke on 28 January 2021. Since affirming my affidavit on 10 May 2021, I have reviewed the entries in my Microsoft Outlook calendar for 28 January 2021 and I have seen that I sent an email invitation to Ms Chrysanthou, Mr Richardson, Mr Dyer and Mr Hooke for this conference to take place on Microsoft Teams at 4:30pm. I recall that this conference did take place via Microsoft Teams and that the conference was a video conference, not a telephone conference. Annexed to this affidavit at **pages 6 to 9 and marked “Annexure MDB-6”** is a screenshot of my Microsoft Outlook calendar entries for 28 January 2021, a copy of the Microsoft Teams conference details and a screenshot of the duration of the Microsoft Teams conference taken from Microsoft Teams.

#### **Telephone conversations with Ms Chrysanthou**

- 4 As explained in paragraph 26 of my First Affidavit, Ms Chrysanthou called me on 15 March 2021. Prior to this call taking place, I received an email from Ms Chrysanthou at 7:50am on 15 March 2021, asking if I was available for a call after 9:30am. I responded to Ms Chrysanthou at 8:11am confirming that I was available. Copies of



Ms Chrysanthou's email to me and my response sent on 15 March 2021 are annexed to this affidavit at **pages 10 to 11 and marked "Annexure MDB-7"**.

5 I believe Ms Chrysanthou called me at approximately 9:30am on 15 March 2021 and that the telephone call lasted for approximately five to ten minutes.

6 At paragraph 26 of my First Affidavit, I depose to Ms Chrysanthou having told me during that telephone call that she had "run this past Bret Walker and two other silks". I recall that Ms Chrysanthou told me during the telephone call on the morning of 15 March 2021 that she had spoken with Mr Arthur Moses SC and that she had also spoken to her husband about the matter, whose name I cannot recall.

7 In addition to what I have deposed to at paragraph 26 of my First Affidavit and paragraph 6 of this affidavit, I also recall having a conversation in words to the following effect with Ms Chrysanthou during this telephone call:

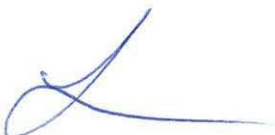
I said: "Can you send me the pleading?"

I do not recall what Ms Chrysanthou said in reply.

8 Later that day on 15 March 2021 at around 3:00pm or 4:00pm, I called Ms Chrysanthou and recall a conversation in words to the following effect:

I said: "I've now spoken with Jo and she does have a problem with you taking the Porter brief. Our view is that you have a conflict with Jo. A lot of confidential information was disclosed in our conference with you that is potentially directly relevant to Porter's case against the ABC. In my view, you're conflicted and shouldn't be acting".

She said: "I have been extremely careful in considering my position on this. I genuinely have no recollection of anything confidential having been disclosed. All I recall is that [REDACTED] [REDACTED] but both those matters have since become public record. I spoke to Matt about this, he also doesn't recall anything confidential being discussed at the conference and agreed that I can act. I won't cross-examine Jo if she becomes a witness in the case against the ABC and I'll step out of the court if she is cross-examined to reassure her. Because of the cab rank rule, I'm



obliged to act unless I think I can't. I have considered it carefully and spoken to others about it and I believe I don't have a choice".

I said: "What if Jo decides [REDACTED]  
[REDACTED]  
[REDACTED]"

She said: "Yes I would".

I said: "We're asking you to reconsider your position on this".

She said: "I'm not prepared to return my brief. Anyway, nothing is going to happen in the ABC case for the next four weeks until the ABC files its defence. I'd be happy to reconsider my position then, depending on the content of the defence. If I find that I have a conflict at any stage, then I'll act accordingly."

9 On 24 March 2021, I called Ms Chrysanthou and recall a conversation which lasted for approximately five minutes in words to the following effect:

I said: "I've received written advice from Nic Owens [REDACTED]  
[REDACTED]  
[REDACTED] Our position remains that you should withdraw from the Porter proceedings and I am formally requesting that you do so. Nic is happy to meet with you directly and talk about it if you like."

She said: "I've never been in this position before, what happens from here?"

I said: "Well, if you're not prepared to withdraw, we'll have to bring proceedings for an injunction to force you out or complain to the Bar Association, or both. I'd have to get instructions on that".

She said: "I'd like to talk to Nic but I want to involve Bret [Walker] in that conversation as well and talk to them both together".

I said: "OK that's fine. I will leave you to organise that and I'll let Nic know".

She said: "That may be difficult this side of Easter, I wasn't planning to go into chambers again before that".





I said: "There is obviously some urgency to getting this resolved".

She said: "I'm not actually doing anything on the Porter case at the moment and our side doesn't have anything to do for a while. The ABC has to file its defence in six weeks' time, then there'll be a case management hearing in May and there's nothing else going on in the meantime."

10 On 24 March 2021 at 6:39pm, I sent an email to Ms Chrysanthou, explaining that I had spoken with Mr Owens who had requested that I attend the meeting and requesting a copy of the particulars in Mr Porter's proceedings against the ABC. At 8:04pm that evening, Ms Chrysanthou replied to my email confirming that she would get instructions. Copies of my email to Ms Chrysanthou and her response on 24 March 2021 are annexed to this affidavit at **pages 12 to 13 and marked "Annexure MDB-8"**.

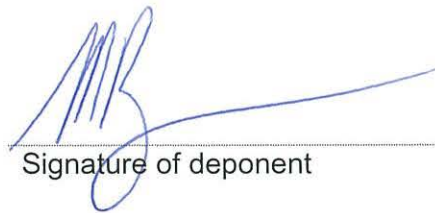
11 On 25 March 2021 at 5:36pm, I received an email from Mr Owens saying that he had spoken with Mr Walker, who had declined to be involved in any discussion between Mr Owens and Ms Chrysanthou. A copy of Mr Owens' email is annexed to this affidavit at **pages 14 to 15 and marked "Annexure MDB-9"**.

12 On 29 March 2021, I sent an email to Ms Chrysanthou attempting to set up a meeting with Ms Chrysanthou, Mr Owens and me during that week (which was the week preceding Easter). A copy of email sent on 29 March 2021 is annexed to this affidavit at **pages 16 to 17 and marked "Annexure MDB-10"**.

13 I did not receive a response from Ms Chrysanthou to this email. I have not had any direct communication with Ms Chrysanthou since.

Affirmed by the deponent  
at Sydney  
in New South Wales  
on 21 May 2021  
Before me:

)  
)  
)  
)  
)



Signature of deponent

---

Signature of witness  
Lauren Gasparini  
Solicitor  
Level 4, 343 George Street  
Sydney NSW 2000

Rule 29.02(8)

**Certificate identifying annexure**

No. NSD426 of 2021

Federal Court of Australia  
District Registry: Sydney  
Division: General

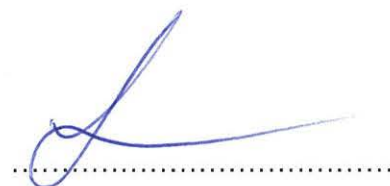
**Joanne Elizabeth Dyer**  
Applicant

**Sue Chrysanthou SC**  
First Respondent

**Charles Christian Porter**  
Second Respondent

**Annexure "MDB-6"**

This is the annexure marked "MDB-6" to the affidavit of Michael David Bradley affirmed before me on 21 May 2021.



Signature of witness

← Michael Bradley

Thursday

28

[Redacted content]



News Ltd: Microsoft Teams Meeting: Michael Bradley

[Redacted content]



## Lauren Gasparini

---

**Subject:** News Ltd  
**Location:** Microsoft Teams Meeting

**Start:** Thu 28/01/2021 4:30 PM  
**End:** Thu 28/01/2021 5:30 PM

**Recurrence:** (none)

**Meeting Status:** Meeting organizer

**Organizer:** Michael Bradley  
**Required Attendees:** Sue Chrysanthou; Matthew Richardson; Jo Dyer; James Hooke (MIRA)

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## Microsoft Teams meeting

### Join on your computer or mobile app

[Click here to join the meeting](#)

### Or call in (audio only)

+61 2 7208 4737,,373585549# Australia, Sydney

Phone Conference ID: 373 585 549#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

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Activity



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Teams



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Calls



Files

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Apps



Help



News Ltd

Chat

Files

Details

Scheduling Assistant

Meeting notes

Whiteboard



Join

Close



Michael Bradley joined the meeting.



Michael Bradley named the meeting to News Ltd.



Meeting started 28/01 4:31 pm



Sue Chrysanthou (Guest) was invited to the meeting.



Sue Chrysanthou (Guest) no longer has access to the chat.



Meeting ended 42m 13s 28/01 5:13 pm



Meeting ended 0s 28/01 5:19 pm

Type a new message



9



Rule 29.02(8)

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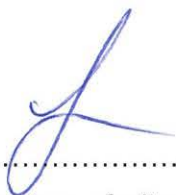
**Joanne Elizabeth Dyer**  
Applicant

**Sue Chrysanthou SC**  
First Respondent

**Charles Christian Porter**  
Second Respondent

**Annexure "MDB-7"**

This is the annexure marked "MDB-7" to the affidavit of Michael David Bradley affirmed before me on 21 May 2021.



.....  
Signature of witness

## Lauren Gasparini

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**From:** Michael Bradley  
**Sent:** Monday, 15 March 2021 8:11 AM  
**To:** Sue Chrysanthou  
**Subject:** Re: Good morning

Yep!

On 15 Mar 2021, at 7:50 am, Sue Chrysanthou <sue@chrysanthou.com.au> wrote:

Hi Michael,

Are you around after 930 for a quick call?

Sue Chrysanthou

**153 Phillip Barristers,**  
Lv 3 153 Phillip St SYDNEY  
Ph: (02) 9132 5711  
Mob: 0414 302 180  
sue@chrysanthou.com.au

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Rule 29.02(8)

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**Annexure "MDB-8"**

This is the annexure marked "MDB-8" to the affidavit of Michael David Bradley affirmed before me on 21 May 2021.



.....  
Signature of witness

## Lauren Gasparini

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**From:** Sue Chrysanthou <chrysanthou@153phillip.com.au>  
**Sent:** Wednesday, 24 March 2021 8:04 PM  
**To:** Michael Bradley  
**Subject:** Re: Porter case [ML-Documents.FID1184906]

Hi Michael,

I will get instructions from Rebekah about that and get back to you.

Kind regards,

Sue

Sue Chrysanthou

**153 Phillip Barristers,**  
Lv 3 153 Phillip St SYDNEY  
Ph: (02) 9132 5711  
Mob: 0414 302 180  
sue@chrysanthou.com.au

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On 24 Mar 2021, at 6:39 pm, Michael Bradley <michaelb@marquelawyers.com.au> wrote:

Hi Sue,

As discussed, I understand you will arrange to meet with Nic Owens and Bret Walker to confer on the conflict issue we have raised. Nic has asked me to attend as well, which I'm happy to do.

You mentioned that particulars have now been provided to the ABC. Would it be possible for me to be provided with a copy? They are likely to be very relevant to the conflict issue. I am happy to receive them on my undertaking that I will only share them with Nic and no other person (including my client).

Regards  
Michael

**Michael Bradley**  
Managing Partner  
MARQUE Lawyers Pty Ltd

<image002.jpg>

P: +61 2 8216 3006 / M: 0419 610 016  
Level 4, 343 George Street, Sydney NSW 2000  
[marquelawyers.com.au](http://marquelawyers.com.au) / [LinkedIn](#) / [Twitter](#) / [Instagram](#)  
Official lawyers for **TEDxSydney**

*We do not disclaim anything about this email. We're quite proud of it, really.*

Rule 29.02(8)

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**Annexure "MDB-9"**

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.....  
Signature of witness

**From:** Nicholas Owens <[nowens@stjames.net.au](mailto:nowens@stjames.net.au)>  
**Sent:** Thursday, 25 March 2021 5:36 PM  
**To:** Michael Bradley <[michaelb@marquelawyers.com.au](mailto:michaelb@marquelawyers.com.au)>  
**Subject:** Re: Suer Chrysanthou [ML-Documents.FID1184906]

I've spoken to Bret – we both agree that it is actually pretty unhelpful for him to be involved in any discussion, because we can't say to him the things that need to be said to Sue without him becoming infected too.

So we've agreed that if Sue wants to chat it should be without him present.

Nic

**Nicholas Owens**  
Fifth Floor St James' Hall  
169 Phillip Street  
Sydney NSW 2000

<http://5stjames.com.au>

**Tel:** + 61 2 8257 2578  
**DX:** 181 Sydney

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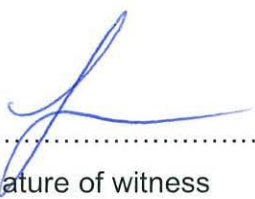
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**Annexure "MDB-10"**

This is the annexure marked "MDB-10" to the affidavit of Michael David Bradley affirmed before me on 21 May 2021.

  
.....  
Signature of witness

## Lauren Gasparini

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**From:** Michael Bradley  
**Sent:** Monday, 29 March 2021 3:28 PM  
**To:** Sue Chrysanthou  
**Subject:** Jo Dyer case [ML-Documents.FID1184906]

Hi Sue,

Further to our phone conversation last week, I understood you were going to contact Nic Owens to arrange a meeting. I understand that hasn't happened and that Bret Walker has indicated that he does not want to participate in that meeting for understandable reasons. I am anxious of course that this meeting should happen as soon as possible. Nic tells me he has good availability this week.

Regards  
Michael

**Michael Bradley**  
Managing Partner



**MARQUE Lawyers Pty Ltd**

P: +61 2 8216 3006 / M: 0419 610 016

Level 4, 343 George Street, Sydney NSW 2000

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Official lawyers for **TEDxSydney**

*We do not disclaim anything about this email. We're quite proud of it, really.*