

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 6/04/2021 2:29:49 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: NSD1485/2018  
File Title: BEN ROBERTS-SMITH v FAIRFAX MEDIA PUBLICATIONS PTY LTD  
(ACN 003 357 720) & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Dated: 7/04/2021 12:37:15 PM AEST

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)

**Supplementary Affidavit of Peter Llewellyn Bartlett**

No. NSD1485/2018  
NSD1486/2018  
NSD1487/2018

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

**Ben Roberts-Smith**

Applicant

**Fairfax Media Publications Pty Limited and others**

Respondents

Affidavit of: **Peter Llewellyn Bartlett**  
Address: 447 Collins St, Melbourne VIC 3000  
Occupation: Solicitor  
Date: **6** April 2021

*P.L.B.*

*[Faint mirrored text bleed-through from the reverse side of the page]*

I, **Peter Llewellyn Bartlett**, Solicitor, of 447 Collins Street Melbourne, in the State of Victoria, say on oath:

1. I am a partner of MinterEllison and am the lawyer for the Respondents in these proceedings. I am authorised to affirm this affidavit on behalf of the Respondents.
2. Nothing in this affidavit or its annexure is intended to waive any client legal or legal professional privilege. To the extent that any part of this affidavit may be construed as a waiver of privilege, I withdraw and do not rely on that part of the affidavit.

**Application for leave to issue a subpoena to attend to give evidence to John McLeod**

3. In around early February 2021, the Respondents became aware that John McLeod had information relevant to the proceedings.
4. Between 2 March 2021 and 23 March 2021, I made a number of attempts to speak with Mr McLeod about any information he had that was relevant to the proceedings, but I was unable to do so.
5. On 23 March 2021, I was informed that Mr McLeod was prepared to confer with the Respondents' legal representatives.

**DYLAN DEXTER** *Dexter*  
of 447 Collins Street, Melbourne  
An Australian Legal Practitioner  
within the meaning of the Legal  
Profession Uniform Law (Victoria)


*[Handwritten signature of Peter Llewellyn Bartlett]*

6. On 24 March 2021 the Respondents' legal representatives met with Mr McLeod and his barrister in Brisbane.
7. Annexed hereto and marked **PLB-3** is an Outline of Evidence for John McLeod which the Respondents' seek leave to file.

Sworn by the deponent  
 at Melbourne  
 in Victoria  
 on 6<sup>th</sup> April 2021  
 Before me:

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)  
)  
)

  
 \_\_\_\_\_  
 Signature of deponent



\_\_\_\_\_  
 Signature of witness

Solicitor

**DYLAN DEXTER**  
 of 447 Collins Street, Melbourne  
 An Australian Legal Practitioner  
 within the meaning of the Legal  
 Profession Uniform Law (Victoria)

## Annexure Certificate

No. NSD1485/2018  
NSD1486/2018  
NSD1487/2018

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

**Ben Roberts-Smith**

Applicant

**Fairfax Media Publications Pty Limited** and others

Respondents

This is the annexure **PLB-3** referred to in the Supplementary Affidavit of Peter Bartlett affirmed on April 2021.



DYLAN DEXTER  
of 447 Collins Street, Melbourne  
An Australian Legal Practitioner  
within the meaning of the Legal  
Profession Uniform Law (Victoria)



## Outline of Evidence – John McLeod

No. NSD1485 of 2018

**Ben Roberts-Smith**

Applicant

**Fairfax Media Publications Pty Limited and Ors**

Respondents

The Respondents anticipate that at trial John McLeod will give evidence in substance in accordance with this outline of evidence.

1. John McLeod is currently working as a part time security guard at a shopping centre. This work is temporary and COVID-19 related.
2. McLeod first met the Applicant at the Stamford Plaza, Brisbane in about 2011. McLeod was employed there at that time.
3. After this, the Applicant and the Applicant's former wife, Emma, would ask McLeod to do things from time to time, mostly for the Applicant. They became relatively close. Tasks included booking hotels and cars for them, organising tickets for them to the football through contacts he had, consulting in relation security for their house and other ad hoc tasks.
4. In about March/April 2018, the Applicant asked McLeod to conduct some surveillance of a woman. The Applicant contacted McLeod and sent him a photo of the woman. The woman had [REDACTED] The Applicant did not tell him her name. The Applicant told McLeod she was arriving on a flight from [REDACTED] the following day, or maybe two days later and that she was going to the Greenslopes day hospital or day surgery. The Applicant said to McLeod something like, "All I want is video of her arriving, entering and leaving". The Applicant told McLeod it was for an executive at Channel 7.
5. McLeod conducted surveillance in the morning. When he saw the woman, he took a short video and texted the video to the Applicant.
6. In about the period May to July 2018 the Applicant rang McLeod one morning during the week and asked to meet. They met at Bunnings in North Lakes. The Applicant had a blue plastic folder he carried with him to the meeting. They had a general catch-up chat and the Applicant later said something like, "I'm under the pump, I'm flat out, can you post for me. The names are in there and I'll get you the addresses tonight". The Applicant then handed McLeod the blue folder which contained three sealed envelopes which were blank save for stamps on them (the envelopes each had a different number of stamps) and a number of slips of paper with names on them. McLeod does not recall the names on those pieces of paper.

7. McLeod said to the Applicant in substance, "You're not that fucking stupid to send anything silly in the mail." The Applicant said to McLeod words to the effect that it wasn't anything to worry about and said something like, "It's guarantees for our watches". McLeod took this to mean for SAS watches.
8. That night, the Applicant either telephoned or texted McLeod and provided him with the address for one of the intended recipients of the envelope.
9. McLeod did not open any of the envelopes at any time.
10. The Respondent is not able to anticipate what McLeod's evidence will be as to what he did with one of the envelopes as McLeod has foreshadowed that he will seek a certificate under s128 of the *Evidence Act* and on that basis has declined to tell the Respondents other than under compulsion.
11. The Applicant did not provide the addresses for the other two envelopes and the Applicant directed McLeod to throw out the remaining two envelopes. McLeod put the two envelopes in his office but did not throw them out.
12. McLeod retained the two remaining envelopes and the pieces of paper with the names of the intended recipients and he has caused them to be provided to the AFP.

