

NOTICE OF FILING AND HEARING

Filing and Hearing Details

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| 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 |

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.

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 Beer Gillis Delany Lawyers

14/60 Martin Place
Sydney NSW 2000

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

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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: Lehmann 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:

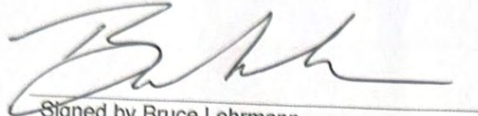
[REDACTED]

Email: [REDACTED]

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: 31 May 2024



Signed by Bruce Lehrmann
Appellant

Schedule

No. of 2024

Federal Court of Australia
District Registry: NSW
Division: General

Appellant

Bruce Emery Lehrmann

Respondents

Network Ten Pty Ltd
Second Respondent: Ms Lisa Wilkinson

Date: