

Geoffrey Rush's lawyers argue newspaper's allegations "motivated to harm" the actor

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Lawyers for internationally-acclaimed actor Geoffrey Rush have lodged an amended outline of evidence in his defamation case against the Murdoch-owned Nationwide News, which publishes the *Daily Telegraph*, and Jason Moran, the newspaper's entertainment and celebrity journalist.

Amid the global #MeToo furore, the Sydney tabloid claimed in articles last November 30 and December 1 that Rush had behaved in a sexually inappropriate manner toward a female cast member during a Sydney Theatre Company (STC) production of *King Lear* in 2015–16. The articles were sensationally headlined "King Leer" and "Bard Behaviour."

Rush immediately denied the claims and launched legal action a week later, accusing the newspaper of portraying him as a "sexual predator" and a "pervert."

In their amended submission, Rush's lawyers assert that the *Telegraph* articles—and repeated claims in Nationwide News outlets in the following months—were "actuated by malice" and published "for the improper motive of harming" the Oscar-winning actor.

Like most of those targeted by #MeToo-style allegations, no charges were ever laid against Rush, let alone an official complaint made to police. The actor was not informed by the newspaper about the supposed "inappropriate" behaviour allegations until the evening before they were printed in the *Telegraph* and then republished uncritically around the world.

Despite Rush's strong denials, Nationwide News' publications, in fact, continued to "pile on" against him in subsequent articles, weeks and months after the defamation case was launched.

The spurious claims had a serious impact on the 66-year-old actor, who was pressured to stand down as president of the Australian Academy of Cinema and Television Arts (AACTA), the peak drama body he

helped establish. The actor's pre-recorded video message to AACTA's annual awards ceremony in early December was pulled following demands from television executives.

Rush has not worked since the newspaper's accusations. According to his lawyers, the actor was virtually housebound and on medication in the three months after the newspaper's claims. An affidavit lodged in April said the actor woke up "every morning with a terrible sense of dread." He would "rarely attend public events" and felt that his worth to the theatre and film industry had been "irreparably damaged."

In June, Rush bravely announced that he would play Malvolio in the Melbourne Theatre Company production of *Twelfth Night* later this year. He decided this month, following medical advice, however, to withdraw from the production because he could not provide "the necessary creative spirit and the professional stamina required for the project."

Rush's amended submission points to ongoing detrimental reportage by Nationwide News publications. It references articles published by the *Australian*, *Daily Telegraph*, *Herald-Sun* and *Courier Mail* in February and March this year.

These articles, the submission argues, were "misleading and sensationalist" and repeated unsubstantiated allegations contained in Nationwide News' defamation defence "as though they were fact."

Rush's lawyers assert that the *Telegraph* had no concrete, objectively verifiable evidence at the time of publication that the actor had engaged in any misconduct of a sexual nature during the STC production.

The newspaper was told by the STC, moreover, on November 29 that the female cast member alleged to have made a complaint against Rush was "distressed

and extremely fragile.” The STC “took the view that it was the complainant’s story to tell it at a time of her choosing and on her own terms. Notwithstanding that, the [*Telegraph*] still published the matters complained of ... because they were motivated to harm [Rush] rather than to support the alleged complainant.”

The new documents also state that on November 30, the *Telegraph* ignored a written statement from the theatre company, which said the complaint was “made to the STC, not by the STC, and was not a conclusion of impropriety.”

The *Telegraph* did not publish that part of the STC statement. On the contrary, its article declared: “Two STC sources said the company stood by her [the complainant’s] claims.”

The *Telegraph* also lifted generic comments about the international entertainment industry from the Facebook account of actor Meyne Wyatt and posted it on the newspaper’s front page. Rush’s lawyers argue that the newspaper “misrepresented” the comment, “representing that he was personally taking a stand against [Rush].” The newspaper’s journalist did not even speak to Wyatt before publishing the comment.

In March, Federal Court Justice Michael Wigney struck out the entirety of Nationwide News “truth defence” and several paragraphs of its “qualified privilege” defence. He also refused to allow Nationwide News lawyers to subpoena the STC, describing it as a “fishing expedition.” In April, the court rejected Nationwide’s attempts to file a “cross-claim” against the theatre company—i.e., enjoin it as a co-defendant—claiming that it was “an accessory” to the newspaper’s publications.

The “qualified privilege” defence means that the publisher must show the alleged defamatory articles were in the “public interest” and that it “acted reasonably.” Nationwide News lawyers will attempt to claim that the *Telegraph*’s articles, which were inspired by the upper-middle class, anti-democratic #MeToo movement’s witch-hunting of filmmakers, actors and others in the US, were “matters of proper and legitimate public interest.”

Closed-door discussions were held between Rush and his lawyers and Nationwide News in the Federal Court in early July. While this fuelled some media speculation that the publishing company may seek a pre-trial settlement, such court-mediated discussions

normally occur before defamation trials.

Irrespective of the outcome of the scheduled eight-day trial, due to start on September 3, or whether the media conglomerate offers a pre-trial deal, the case, thus far, has indicated that Nationwide News targeted Rush in pursuit of #MeToo’s right-wing agenda.



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