

Australian Daily Telegraph lawyers plead “truth defence” in Geoffrey Rush defamation case

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Australian Federal Court judge Michael Wigney has ruled, in pre-trial hearings of Geoffrey Rush’s defamation action against the *Daily Telegraph* and its entertainment and celebrity journalist Jonathon Moran, that lawyers for the Sydney tabloid can present a modified “truth” defence.

Rush is suing the newspaper, which is owned by Rupert Murdoch’s Nationwide News, on the basis that it published unsubstantiated claims last year that the actor behaved in a sexually inappropriate way toward a fellow actor during a Sydney Theatre Company (STC) production of *King Lear* in 2015–2016.

Nationwide News’ latest “truth” defence—the third change to its defamation defence since the long-running pre-trial hearings began—is said to be based on an affidavit from Eryn-Jean Norvill, the previously unidentified co-star who had reportedly accused Rush.

The *Daily Telegraph* did not contact or interview Norvill before publishing its accusations last year. The allegations, sensationally headlined “King Leer” and “Bard Behaviour,” were republished in newspapers and electronic media outlets across Australia and internationally.

Nationwide News lawyers told the Federal Court last week that Norvill was prepared to testify when the case, now rescheduled to start on October 22 and expected to run for at least 13 days, is heard.

Norvill’s decision to testify came after months of expensive legal delays and manoeuvres by Nationwide News lawyers. The multi-billion dollar media corporation, which has played a key role in promoting the toxic and anti-democratic #MeToo movement and its attacks on the presumption of innocence and other basic legal rights, has deep pockets. It is prepared to spend vast sums to defeat Rush’s defamation suit.

In March, Justice Wigney dismissed the newspaper’s previous “truth” defence in its entirety. He said it was “deficient,” “ambiguous” and provided no credible details. He also rejected the *Telegraph* lawyers’ attempts to subpoena STC officials as an “abuse of legal process,” describing it as a “fishing expedition.”

The media outlet’s lawyers unsuccessfully appealed this ruling to a Federal Court full bench in April. They then attempted to “enjoin” the STC as a co-defendant. When that failed, Nationwide News lawyers said they would make a “qualified privilege” defence—i.e., argue that the *Telegraph*’s original accusations were in the “public interest.” This defence has now been abandoned.

Rush’s barrister Sue Chrysanthou told the Federal Court last week that although she did not oppose the newspaper’s application to run a truth defence, that did not in any way imply acceptance of the *Telegraph* lawyers’ arguments.

Earlier, Chrysanthou told the court Rush had witnesses who would “directly contradict” Norvill’s statement and there were inconsistencies between the statement and the *Telegraph*’s original defence. For example, the original defence claimed Rush followed the woman into a toilet, but “the statement we now have, he didn’t follow her into the toilet.”

In *King Lear*’s final scene, the 67-year-old Rush, as Lear, had to lift and carry Norvill, playing his dead daughter Cordelia, onto the stage. The new Nationwide News defence document says Norvill objected to how he carried her. She accuses him of moving his hand along the waistline of her jeans and touching the skin of her lower back.

On another occasion, he is alleged to have run his hand down Norvill’s torso and across the side of her right breast and later used “his hands to grope the air like he

was fondling the Complainant’s hips or breasts.” These actions, the defence submission states, were “sexually predatory,” of “a kind in which only a pervert would engage,” and “scandalously inappropriate behaviour in a theatre.”

Rush is also accused of treating Norvill as a “sexual object,” making her feel “uncomfortable, embarrassed and compromised” and that he “violated her bodily [sic] integrity and sexual autonomy.”

The defence document also alleges that six months after the STC production finished, Rush sent Norvill a text message saying that “he thought of her ‘more than is socially appropriate’.”

These are entirely unproven accusations, yet to be tested in court. Even if any of these actions occurred, none amount to sexual perversion or criminal sexual assault. Most of the alleged events, moreover, took place during rehearsals or preview performances, and in full view of the play’s director and other members of the cast.

Almost three years ago, on December 2, 2015, the *Telegraph* published an interview with Norvill. The actor said, according to the newspaper, “that working with Geoffrey Rush, who is ‘always flipping the coin to see what’s underneath,’ was exciting. ‘Geoffrey is just forever playful. He’s so generous, he’s very cheeky which is perfect for me. I feel very privileged to work with him and proud to be [Cordelia] his ‘favourite daughter’.”

Norvill is likely to be questioned about her praise for Rush and his artistic style in this interview.

Justice Wigney ruled last week that Norvill’s affidavit would not be made public because he did not want “trial by media.” Despite this, Murdoch-owned publications, joined by the Fairfax Media, the *Guardian* and other newspapers and broadcasters, have had no qualms about circulating snippets from the latest untested defence claims.

That Rush’s personal and professional reputation, not to mention his health, has been severely impacted by an almost year-long “media trial”—with no possibility of redress until the defamation trial begins in two months—is of little consequence to the corporate media and the #MeToo movement. Rush, in fact, has not worked since last year’s *Telegraph* articles and according to his lawyers the acclaimed actor believes his career has been “irreparably damaged.”

For the #MeToo vigilantes and their media allies, the Rush case is an internationally significant test case. He is among the few victims of such allegations who have

sought to legally defend themselves. If his defamation suit succeeds, it will be a blow to #MeToo’s use of rumour, hearsay and unproven allegations of “inappropriate sexual behaviour” to take down targeted individuals.

The posturing about protecting women against sexual harassment and other forms of exploitation is manufactured and false. #MeToo is an international political vehicle for rightward moving upper-middle class layers who are using it to enhance their own careers and social positions and, in the some cases, pursue undisclosed personal vendettas. In the process, it is being employed to attack and undermine fundamental democratic principles, such as the presumption of innocence unless proven guilty and the right to due process.

Irrespective of the outcome of Rush’s defamation suit, #MeToo’s sexual witch hunting will continue. In the nine months since the *Daily Telegraph* published its allegations, its Australian proponents have been actively securing government and corporate backing and sponsorship.

Two days after Murdoch media lawyers presented their new defence case, the *Australian Financial Review*’s BOSS magazine announced its “14 True Leaders” awards for 2018. Heading the list of big business identities and entrepreneurs was Tracey Spicer, #MeToo’s leading Australian advocate.

Accepting the award, Spicer said “thousands more sexual scandals” would emerge this year in Australian financial services, the media, health, sport, real estate and hospitality sectors. “The stories that are going to come out will be shocking,” she declared. “Next year will see the Human Rights Commission’s inquiry, a landmark documentary, and several books on #MeToo come out in Australia, so this movement is not going away.”

BOSS describes itself as “Australia’s premier magazine for business leaders and high-achievers—and those who aspire to join their ranks.”



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