

Actor Geoffrey Rush awarded record payout in defamation damages

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Acclaimed actor Geoffrey Rush has been awarded \$1.98 million in “special damages for economic loss,” due to the publication of defamatory articles by the Murdoch media’s *Daily Telegraph*, published by Nationwide News. This was in addition to an earlier amount of \$850,000 for general damages, including \$42,000 in interest, making the total nearly \$2.9 million, the highest defamation payout to a single person in Australian history.

The award was made at the conclusion of yet another hearing in the ongoing case of *Rush vs Nationwide News*. It followed his counsel Sue Chrysanthou’s revelation that the actor had offered to settle the matter for a payment of just \$50,000, in January last year, if it removed the slanderous articles, agreed not to reprint the allegations, and made a front-page apology, printed in large type. Chrysanthou told the court that Nationwide News had “ignored” the offer.

Nationwide News’s response underscored its determination to proceed with the case at any cost. Last month the publisher indicated it would appeal Justice Michael Wigney’s defamation judgment, before either a full three-judge Federal Court or another single judge. This would require a re-trial.

In the course of his judgment, Wigney declared that the defamatory statements were “a recklessly irresponsible piece of sensationalist journalism of the worst kind—the very worst kind.” Evidence was presented to the court that the published statements had had a chilling impact on Rush, his family, his health and his ability to act.

To his credit the world-renowned actor and his legal team persevered with the defamation suit, under conditions of immense personal and professional pressure, not the least of it emanating from the #MeToo movement.

In the most recent hearing last Thursday, Nationwide News applied for Justice Wigney to recuse himself from presiding over an appeal by the Rush team for an injunction against the media empire, which would prevent

it from republishing its defamatory imputations against the Oscar-winning actor.

When it first published the defamatory articles, on November 30 and December 1, 2017, the *Daily Telegraph* and its celebrity gossip journalist, Jonathon Moran, had received only an anonymous tip from the Sydney Theatre Company (STC), with no actual witness to the relevant events and no knowledge of the identity of Rush’s accuser. But, following similar allegations—against TV personality Don Burke, for example—published by Nationwide News’ competitors in the Fairfax media, it rushed into print, without any apparent concern for the facts.

This occurred during the early stages of the #MeToo movement in Australia, which has been characterised by its disregard for the democratic rights of its mainly male victims: including the presumption of innocence, and the right to due process.

The *Daily Telegraph*’s early 2017 coverage involved complaints of Rush’s “inappropriate” behavior towards his co-star, later revealed to be actress Eryn Jean Norvill, in the STC’s 2015–16 production of *King Lear*. Rush had played the title role of King Lear, while Norvill played his youngest, and most faithful daughter, Cordelia. The allegations were published in a sensationalist manner, characterising Rush as “King Leer,” a “sexual predator” and a “pervert,” without properly consulting him or affording him the right of reply. Since the *Daily Telegraph* had, at this stage, no idea who the complainant was, it treated her fundamental rights in the same manner.

Following publication of the slanderous material, Rush decided to sue Nationwide News for defamation, and the trial began in November 2018. Just before its final session, Norvill’s identity became known, and, at the very last minute, she decided to act as a witness for Nationwide News.

Justice Wigney handed down his more than 200-page

judgment on April 11, 2019, finding that Rush had, indeed, been defamed, and that Norvill had “exaggerated and embellished” her evidence, meaning that it could not be relied upon as credible. Moreover, there was not a single witness, including the members of the King Lear cast and crew, who had corroborated it.

Since then, according to Rush’s legal team, the *Daily Telegraph* has continued to report on the defamatory allegations, including repeating them in a manner that has been neither accurate nor fair. At a hearing two weeks ago, Chrysanthou raised the necessity of an injunction to prevent Nationwide News from continuing in this vein.

“This [Nationwide News] is a Respondent that is irrational when it comes to my client [Rush],” she declared. “It has shown disrespect for the court’s decision and cannot be trusted to abide by the court’s ruling as far as these imputations are concerned.”

In its coverage of the Rush allegations, Nationwide News has aped the methods of the #MeToo movement, seeking to undermine any objective, critical approach and to whip up a witch-hunt atmosphere of hysteria, demonisation and condemnation. The *Daily Telegraph*, aptly described as the “gutter press,” is the main, but by no means the only, offender in the Murdoch stable.

The Murdoch media has defied the defamation ruling for definite reasons. It has given significant coverage to the #MeToo witch-hunt, not only in Australia, but internationally.

The identity politics that underpins the #MeToo movement elevates issues of gender, sexual preference, ethnicity and race above the fundamental divide in society—that of class. This is in keeping with the aim of the Murdoch media to divert the attention of ordinary workers and young people away from the brutal realities of contemporary society, including the drive to war, the increasingly desperate economic and social crisis, and the turn towards authoritarian and fascistic forms of rule.

Last Thursday, in the course of the most recent hearing, Sue Chrysanthou pressed this matter of an injunction against the *Telegraph*, in order to prevent the newspaper from publishing any repetition of its defamatory allegations. Once again, she insisted that it take down from its website all the defamatory articles, posters and commentary on the matter, from late 2017 on.

Tom Blackburn SC, the *Telegraph*’s counsel, opposed the injunction, insisting it would limit freedom of speech and have “a chilling effect” on the #MeToo movement. Calling it a “blunt instrument,” he said it would serve to “criminalise” a legitimate comment which might convey

any one of these meanings.”

If an injunction serves to prevent #MeToo from leveraging its anti-democratic witch-hunt, that would be a positive development.

In any event, Chrysanthou emphasised that what she was seeking was an extremely limited injunction, framed as precisely as it could possibly be, and focused primarily on preventing the significant threat of further repetition. It was not aimed at suppressing freedom of speech.

Blackburn then sought to have Justice Wigney recuse himself from presiding over any decision on the injunction. He argued that the judge had already displayed “apprehended bias,” by raising criticisms of Nationwide News and the *Daily Telegraph*, and in his characterisations of some of the trial’s witnesses and their evidence. One of Wigney’s “biased” statements, according to Blackburn, was that Nationwide had been “quick to publish, but slow to defend.”

Chrysanthou dismissed Blackburn’s concerns about #MeToo reporting, saying they were “hysterical ... not in the sense of funny, but in the sense of hysteria.” She went on to sarcastically respond to his accusations about her critical attitude toward Nationwide News by loudly exclaiming: “How dare anyone come to a court and seek to stop the Murdoch empire from saying whatever it wants!”

Justice Wigney ruled that he would not recuse himself from hearing arguments on Rush’s requested injunction, on the grounds that any ordinary, lay observer, of sound and fair mind, would perceive no bias. His decision on a permanent injunction will be forthcoming, and the hearings will resume next week.



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