

Australian court rejects Murdoch appeal against Geoffrey Rush defamation verdict

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Last Thursday, a Full Bench of the Federal Court in Sydney rejected legal appeals by Rupert Murdoch's Nationwide News, publisher of the *Daily Telegraph*, to overturn a prior court judgment that the Sydney tabloid had defamed internationally-acclaimed Australian actor, Geoffrey Rush. The articles were authored by the newspaper's celebrity gossip columnist Jonathan Moran.

In a detailed 169-page ruling, three Federal Court Justices—Jacqueline Gleeson, Richard White and Michael Wheelahan—unanimously endorsed Judge Michael Wigney's earlier 2019 verdict that Rush had been defamed on several counts.

The full bench approved the previous \$2.9 million in damages awarded to Rush, the largest to an individual in Australian legal history, arguing that the final sum was “not manifestly excessive, having regard to the extremely serious nature of the imputations that were conveyed by the publications.”

The damages, the judges stated, were “a combination of the personal hurt and injury [Rush] suffered due to the articles, the work he lost before the trial due to the articles, and future work he would lose due to the articles, and then interest.”

The full bench also suggested that Justice Wigney may have underestimated the impact of the *Telegraph's* defamatory article on the award-winning actor's income.

During the previous defamation case, Nationwide News attempted to defend its defamatory articles by claiming that Rush had behaved “inappropriately” towards Eryn Jean Norvill in a 2015–16 Sydney Theatre Company (STC) production of *King Lear*.

This allegedly included making groping actions with his hands over her body when she lay, as Cordelia, “dead” on the stage; making comments to her

containing sexual innuendo; touching her back lightly; tracing his finger above her right breast, and making lewd gestures towards her with his hands and face.

Justice Wigney had declared that, on the balance of probabilities, none of these was proven to be true. This was endorsed by the full bench who supported Wigney's assessment that Norvill's evidence was not reliable.

“Like the Judge, we consider that Ms Norvill's contemporaneous conduct did give cause to question the reliability of her account of the incidents on which the appellants rely,” the full bench said.

The judges pointed out that although lawyers for Nationwide had challenged Wigney's conclusion that Norvill was an “unreliable witness,” they did not challenge the findings that Rush was a “credible witness.” Nor did they contest that the evidence given by Neil Armfield, who directed *King Lear*, along with actors Robyn Nevin and Helen Buday, and other cast members, was “honest and reliable.”

“[T]he Full Court did not consider that his Honour erred in his ultimate conclusion concerning Ms Norvill's credit [and]... did not accept that the Judge had overlooked difficulties which Ms Norvill may have experienced in giving evidence as a person complaining of sexual assault and sexual harassment.”

Last week's unanimous Federal Court verdict is both a powerful confirmation of Rush's determination to challenge this scurrilous attack on his reputation, and another blow against the #MeToo movement and its assault on basic legal rights.

Its rebuttal of all of the grounds of Nationwide News' appeal follows last year's defeat of a false #MeToo-inspired rape charge against veteran TV and movie actor, John Jarratt. The bogus allegation, that Jarratt had raped a woman more than 40 years ago in 1976,

when he was 23, was given front-page treatment in the *Daily Telegraph* in mid-November 2017.

These articles, which were also written by Jonathan Moran, were published before the allegations were even given to the police, and prior to any official announcement of an investigation.

The rape charge was unanimously rejected in a five-day trial last year, by a jury of five men and seven women. Proven innocent, Jarratt launched two separate defamation cases against the *Daily Telegraph*—the first over its November 2017 story and another over its reportage of the trial outcome—before settling out of court for undisclosed sums.

Likewise, the allegations against Rush’s “inappropriate behaviour” in *King Lear* were demonstrably false.

The *Daily Telegraph* simply seized on an entirely unproven claim—which had been privately communicated by Norvill to an STC colleague—and luridly promoted it in two editions of its tabloid newspaper, along with a widely circulated billboard poster, both published in 2017.

Devastated by the negative publicity directed against him—generated by the Murdoch newspapers—and its impact upon his family and career, Rush took the courageous decision to sue the *Daily Telegraph*.

Launching his action at the Melbourne city offices of his legal team in December 2017, Rush read a carefully prepared statement, soon after the *King Lear* smear campaign had begun.

“The situation is intolerable,” he declared, “and I must now seek vindication of my good name through the courts.” The actor accused the *Daily Telegraph* of making “false, pejorative and demeaning claims, splattering them with unrelenting bombast on its front pages...

“This has created irreparable damage to my reputation, has been extremely hurtful to my wife, my daughter and my son, and to my extended family as well as to many colleagues in the film, television and theatre industry.”

Rush’s decision to sue the *Daily Telegraph* and expose the bogus allegations, like that of Jarratt, was both courageous and correct.

While the case has delivered an important blow against the anti-democratic #MeToo movement, and its selfish middle-class concerns, the attacks on the

presumption of innocence, due process and other basic legal rights continue.

The *New York Times* and other media warriors for #MeToo continue their persecution and demonisation of those they have decided to “take down.” Last week’s Full Court decision, moreover, does not prevent the *Daily Telegraph* seeking special leave to appeal to the High Court.

According to media reports, the defamation case, including legal costs and the payout to Rush, will cost Nationwide News about \$6 million. The Murdoch media, however, has deep pockets and may well pursue an appeal as part of the agenda of the ruling class to eviscerate basic democratic rights as it carries out ongoing attacks on the social conditions of the working class.

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