

**AUSTRALIAN CAPITAL TERRITORY
Board of Inquiry – Criminal Justice System**

**In the matter of the *Inquiries Act 1991*
*Inquiries (Board of Inquiry – Criminal Justice System) Appointment 2023 (NI2023-49)***

Subpoena 2023/S/0037

STATEMENT OF MARLIA SAUNDERS

I, Marlia Saunders, of c/- Thomson Geer Lawyers, Level 14, 60 Martin Place, Sydney NSW 2000, state as follows:

Background and Professional History

1. From September 2021 to date, I have been a Partner in the Media team at Thomson Geer Lawyers, based in Sydney.
2. In or about June 2022, I was instructed to act for and advise Network Ten Pty Limited (**Network Ten**) and Lisa Wilkinson (**Ms Wilkinson**) in connection with the criminal prosecution in R v Lehrmann.

Interactions with the Director of Public Prosecutions

3. On 21 June 2022, Chief Justice Lucy McCallum of the ACT Supreme Court delivered her judgment in *R v Lehrmann (No 3)* [2022] ACTSC 145, in which the trial was vacated and a temporary stay was granted. Her Honour asked the ACT Director of Public Prosecutions, Mr Shane Drumgold SC (**Mr Drumgold**) whether he would be making an application for injunctions to restrain public commentary about the case.
4. During the afternoon of 22 June 2022, I made a telephone call to Mr Drumgold. We had a conversation to the following or substantially the following effect:

I said: "I wanted to let you know I will be shortly sending a letter to the Court on behalf of Network Ten and Ms Wilkinson, and will copy the parties. Can you please formally tender the letter in Court tomorrow?"

He said: "Yes I will do that.

I think the media has misreported the evidence that was tendered by the defence in the application yesterday. The media have reported that I told her [Ms Wilkinson] not to give a speech. I didn't say that. All I said was that it was not my role to provide legal advice and it could give rise to an application for a stay.

I feel I should correct reports that there was a positive direction not to give a speech. I feel Ms Wilkinson has been poorly treated. I'll give some thought as to how I can deal with it tomorrow and might say something in open court."

5. At 4:30pm, I sent an email to the Associate to Chief Justice McCallum, copying Mr Drumgold, Ms Priestly, Ms Roff, Ms Jerome, Kamy Saeedi Lawyers and Matthew Collins KC attaching a letter to the Court from Ten and Ms Wilkinson. A copy of this email and the attached letter is annexed and marked "**MS-1**".
6. On 23 June 2022, Mr Drumgold did not say anything in open court to correct the record regarding Ms Wilkinson.
7. On 24 October 2022, I made a telephone call to Mr Drumgold. At this time, the jury had retired in the R v Lehrmann trial to deliberate. We had a conversation to the following or substantially the following effect:




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I said: "I am calling on behalf of Lisa Wilkinson. She has been the subject of intense and unfair criticism in the media since the stay of the trial was granted in June, largely based on the judge's finding that she was warned by you not to give a speech, which is incorrect. The reports are continuing even four months later, and they are impacting her personally and causing her distress."

He said: "I haven't been able to say anything to date in response to questions from the media so as not to impact the trial, but my view is that there has never been a question of anything remotely resembling a contempt of court by Ms Wilkinson.

Reporters have lined me up for the same reasons. This intense media coverage has been new to me. I've never encountered this. I would think they would have moved on by now. The stay is no longer an operative factor. I'm at a loss to understand how it is still a story.

One of the issues that troubles me is that it was never my role to give legal advice. I am acutely conscious there is a judgment in place. I can't use my authority to bridge a gap that the judgment can't bridge.

I care for everybody but if I was to jump out and go on the defence for a witness, I would be exceeding my authority. Most of the media is already suggesting I am overly protective of Ms Wilkinson because of the decision to shut down book sales which mention the allegations but not charge Ms Wilkinson with contempt. Janet Albrechtsen wrote a column to that effect.

If I am asked whether I will lay charges against Ms Wilkinson I will say no because contempt of court was not committed. What was applied was a safety pause. I am pretty keen to do that for my own benefit to avoid an allegation of favouritism. I will be circumspect in my answer but I will give that answer.

I have been asked numerous questions regarding whether a decision has been made to lay charges. I haven't been able to answer because of the trial. Now the trial has concluded I will be free to answer if the trial results in a concluded outcome.

I think the subject of the story will transfer to Linda Reynolds and Michaelia Cash. I may comment in writing about that. Once the trial concludes, the inquiry should recommence into political interference in the trial. The narrative may change. In April 2021 I called for an inquiry into political interference in the criminal process.

It seems to me that the stay is no longer a story. If there was any harm, it is now non-existent. There has never been any suggestion that any contempt has been committed."


8. I took handwritten notes of this conversation, a copy of which is annexed and marked "MRS-2". The notes have been redacted to remove privileged material.
9. On 1 December 2022, I attempted to call Mr Drumgold a few times. He did not answer my calls. I then sent an email to Mr Drumgold. A copy of this email is annexed and marked "MS-3".
10. On 5 December 2022, I attempted to call Mr Drumgold. He did not answer my call and I left him a voicemail.
11. On 6 December 2022, I sent an email to Mr Drumgold. A copy of this email is annexed and marked "MS-4".
12. On 13 December 2022, I sent an email to Mr Drumgold annexing a letter. A copy of this email and the annexed letter is annexed and marked "MS-5". I note there is an error in my letter in that the reference to my email of 2 December 2022 should be a reference to my email of 1 December 2022.
13. I did not receive a response to my emails and letter referred to in [9] to [12] above.

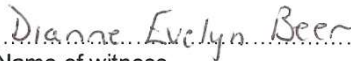
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AFFIRMED before me at Sydney in the State of New South Wales on 3 May 2023.


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Marlia Saunders


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Signature of witness


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Name of witness
Lawyer