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THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

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ADAMS J

TUESDAY 4 MARCH 2008

20354/07 - JOHN WILSON v JOHN HATZISTERGOS & ANOR

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Plaintiff in person
Mr H El-Hage for the defendants

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HIS HONOUR: You gentlemen wearing those T-shirts, you will please leave the courtroom or take them off.

20

PLAINTIFF: Mr Adams--

HIS HONOUR: No, Mr Wilson, sit down.

PLAINTIFF: You are still on indictment for--

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HIS HONOUR: Mr Wilson--

PLAINTIFF: You are still on indictment. You have not faced trial yet.

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HIS HONOUR: Mr Wilson--

PLAINTIFF: Why are you on the Bench? You have not faced trial.

HIS HONOUR: Mr Wilson, sit down. I am conducting this matter.

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PLAINTIFF: I challenge the jurisdiction of the court.

HIS HONOUR: Very well. Sit down. I said, sit down.

PLAINTIFF: I am challenging the jurisdiction of the court.

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HIS HONOUR: I will have you arrested for contempt if you disobey my order.

PLAINTIFF: I am not in contempt.

45

HIS HONOUR: Mr Wilson, you will sit down.

Now, you two gentlemen in the back of the court. I have said you will either leave or you will take off those T-shirts.

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PLAINTIFF: What are they doing?

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HIS HONOUR: I am not speaking to you, Mr Wilson. If you interrupt me, I will have you dealt with.

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PLAINTIFF: Dealt with?

HIS HONOUR: Yes.

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PLAINTIFF: My goodness. You have no jurisdiction.

PERSON FROM FLOOR OF COURT: What's wrong with us wearing the T-shirts?

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HIS HONOUR: I am not going to have political slogans in my courtroom.

PERSON FROM FLOOR OF COURT: It is not political slogans. This is justice - not political.

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HIS HONOUR: I propose to adjourn. Would you please remove those two gentlemen.

SHORT ADJOURNMENT

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HIS HONOUR: Now, Mr Wilson, I will not have a conversation like this in the courtroom. Now, Mr Wilson--

PLAINTIFF: You have no jurisdiction. I am challenging jurisdiction.

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HIS HONOUR: Very well. I will not hear you if you continue to wear that T-shirt. You can have your choice.

PLAINTIFF: You won't hear anything. You have no jurisdiction. I demand that a Jury be empanelled to determine the jurisdiction of the court.

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HIS HONOUR: I have no power to do that, as you know.

PLAINTIFF: I would like to hand this to you, it is a Bible. Please hand this to Michael.

40

HIS HONOUR: Mr Wilson, you will either remove that--

PLAINTIFF: Do you reject this Bible?

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HIS HONOUR: Mr Wilson, you will either remove that T-shirt or I will not hear you.

PLAINTIFF: The ultimate law. I am offering this Bible to you. It is page marked--

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HIS HONOUR: Do you intend to obey my direction or not?

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PLAINTIFF: You have no directions to make. You have no jurisdiction. I am challenging the jurisdiction of the court. This is why they have put you on this case, haven't they? You are still on indictment for a very serious offence which carries five years in gaol. You have not faced a Jury. You are still on indictment.

10

HIS HONOUR: Resume your seat Mr Wilson. I said, resume your seat.

PLAINTIFF: Voluntarily.

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HIS HONOUR: Now, I will not hear you whilst you are wearing that T-shirt. Do you understand.

PLAINTIFF: Tell me why?

HIS HONOUR: Because I will not have a political slogan in my courtroom.

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PLAINTIFF: It is not political, it is jurisdictional.

HIS HONOUR: It is exactly that.

25

PLAINTIFF: It is jurisdictional, it is not political. It means that in Australia we have a democracy. We have the right to trial by Jury.

HIS HONOUR: Don't interrupt please. I will take appearances.

30

PLAINTIFF: You will not because you have got no--

HIS HONOUR: If you interrupt again--

35

PLAINTIFF: --jurisdiction Adams - none. I am challenging the jurisdiction of the court.

HIS HONOUR: Yes, you have said that.

40

PLAINTIFF: This is a kangaroo court which disregards legal rights. It is a kangaroo court. You are a criminal. You are a criminal. In Australia we have the right to trial by Jury.

HIS HONOUR: Remove Mr Wilson from the courtroom please. Please go, go with the officer.

45

PLAINTIFF: That is violence. Hey, hey, is this on video? I want a video.

(Plaintiff removed from the courtroom.)

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HIS HONOUR: I will now resume this matter.

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PERSON FROM FLOOR OF COURT: Excuse me - how can this matter be resumed?

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HIS HONOUR: I am sorry, I am not listening to people in the spectator area. Don't speak.

PERSON FROM FLOOR OF COURT: Excuse me--

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HIS HONOUR: Be silent.

PERSON FROM FLOOR OF COURT: You are above us, we are at different levels. How can you listen to us? We are at different levels.

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HIS HONOUR: Do you agree to be silent?

PERSON FROM FLOOR OF COURT: No--

HIS HONOUR: Do you agree to be silent or do you wish to leave the court?

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PERSON FROM FLOOR OF COURT: No, because I can speak in any area.

HIS HONOUR: No you can't. Remove him please.

(Person removed from the courtroom.)

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EL-HAGE: I appear for both defendants, your Honour.

HIS HONOUR: That's John Hatzistergos and Ian Knight?

30

EL-HAGE: Yes, your Honour.

HIS HONOUR: And you are moving on a notice of motion filed 30 November 2007?

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EL-HAGE: Yes, your Honour. A notice of motion seeking orders under Rules 14.28 and 13.4, to strike the matter out.

HIS HONOUR: Yes. I notice someone else at the bar table.

40

EL-HAGE: That's my instructing solicitor, Ms Valentine. If she could be permitted to sit at the bar table?

HIS HONOUR: Yes, very well.

45

EL-HAGE: Your Honour, the court should have on the court file an affidavit filed in support of that notice of motion.

HIS HONOUR: I have an affidavit of Christina Joy Valentine. Is that sworn 30 November 2007?

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EL-HAGE: It was affirmed on 30 November, yes your Honour. I wish to read

that, your Honour.

5 With your Honour's leave, I also seek to file in court a second affidavit of Christina Joy Valentine affirmed 3 March 2008, a short affidavit which deals with the plaintiff's website which is the subject of this proceeding. I read that affidavit.

10 AFFIDAVITS OF CHRISTINA JOY VALENTINE SWORN 30 NOVEMBER 2007 AND 3 MARCH 2008 READ

That's the extent of the evidence from the defendants on the motion.

15 I have a copy of some submissions prepared and a folder of some of the materials I have referred to in those submissions for your Honour's assistance (handed up).

HIS HONOUR: Thank you.

20 Bring Mr Wilson back, if he wishes to come back into the courtroom please.
(Plaintiff returned to the courtroom.)

25 Now, Mr Wilson, are you prepared to sit quietly and listen to what is happening?

PLAINTIFF: I am challenging the jurisdiction.

HIS HONOUR: Are you prepared to listen quietly?

30 PLAINTIFF: I am prepared to challenge the jurisdiction of the court. You have no jurisdiction.

HIS HONOUR: Yes. You have said that a number of times.

35 PLAINTIFF: And that's the way it is.

HIS HONOUR: And I reject it.

40 PLAINTIFF: That's called legal procedure. I have the legal right to trial by Jury. You have disregarded that for many years now. I have called you evil. You have objected to the word "evil" but I have said that "evil" is the description in the Bill of Rights for "evil counsellors, judges and ministers who subvert and extirpate the laws and liberties of the realm". You are doing that. You are conducting a kangaroo court and in a kangaroo court, any judgments
45 or awards are of no consequence whatsoever.

HIS HONOUR: Mr Wilson, that is nothing less than mere abuse. Now, you will remain silent--

50 PLAINTIFF: You are abusing it. This is a court of justice - justice.

HIS HONOUR: --and listen or you will be removed. Are you prepared to be quiet and listen?

5 PLAINTIFF: Where is the Bible?

HIS HONOUR: Mr Wilson, we have been through this. Do not--

10 PLAINTIFF: It is not going to go away. The Bible - do you reject the Bible?

HIS HONOUR: In that case, you will go away.

PLAINTIFF: Do you reject the Bible?

15 HIS HONOUR: Leave the court, Mr Wilson.

PLAINTIFF: I am offering it to you. Give this to Michael. Here we go again.

(Plaintiff removed from the courtroom.)

20 PERSON FROM FLOOR OF COURT: Amazing. Amazing.

HIS HONOUR: Yes, enough of that Mr Bauskis.

25 BAUSKIS FROM FLOOR OF COURT: You are under indictment and you are still failing to do anything - evil.

HIS HONOUR: Now, I think I might as well just read your submissions Mr El-Hage.

30 EL-HAGE: Yes, your Honour.

HIS HONOUR: Given the nature of the proceedings, Mr El-Hage, perhaps you might briefly make oral submissions, going through the subject matters in your written submissions but there is no need to go into the same level of detail.

35 EL-HAGE: Yes. Perhaps I might start by going through some of the background. I don't think there is much dispute to the background. Over the years the plaintiff it seems has been up-loading copies of court transcripts and judgments related to proceedings in which he has been involved. Those transcripts and judgments have been up-loaded to the website www.rightsandwrongs.com, which is the plaintiff's website.

40 Your Honour will see from paragraph 1 of the statement of claim on the second page that Mr Wilson admits he has been up-loading copies of these transcripts and judgments since at least September 1996.

45 The Attorney General's Department became aware of these activities and on 2 August 2007 sent a letter to Mr Wilson, which is at annexure A to the first affidavit of Ms Valentine, requesting that he take down those transcripts and

judgments from his website.

5 Your Honour will see Mr Wilson's response in an email in annexure B to that affidavit where he questions, amongst other things, the existence of the Crown and the right of the Crown to hold copyright.

10 On 20 August 2007 there was a letter, this time from the Crown Solicitor's office on behalf of the Attorney General's Department, sent to Mr Wilson again requesting he take down copies of those transcripts and judgments from his website. Your Honour will see the email response from both Mr Wilson and a person who describes himself as James Dean at annexure D to Ms Valentine's first affidavit.

15 Mr Wilson again poses a series of rhetorical questions concerning the existence of the Crown but it has to be said that Mr Dean is rather more belligerent in his email.

20 On 17 September the Crown Solicitor's office took the step of issuing what is called a "take down notice" on the carriage service provider, that's the company called WIX Telecommunications T/as G-Node Networks. That's the company that provides, or did at that stage provide the network and systems to host the website. The notice was issued under the copyright regulations and I provided a copy of Part 3A, the relevant part in the folder of materials I have handed up. But, in basic terms, the effect of that notice was to require the carriage service provider to take down the materials on the basis the Crown asserted it had copyright on those materials, subject to Mr Wilson issuing a counter notice, effectively challenging.

30 HIS HONOUR: That man can come in, provided he is silent.

35 EL-HAGE: Subject to Mr Wilson challenging the notice. In short terms, your Honour will see from annexure E a copy of the list of transcripts and judgments that were at that stage up-loaded on the plaintiff's website and they amounted to approximately 63 transcripts and 36 judgments in the various proceedings Mr Wilson has been involved in.

40 Annexure F to the affidavit of Ms Valentine is a copy of a file note concerning telephone conversations between a representative from the carriage service provider company and a solicitor from the Crown Solicitor's office and the up-shot of the file note is that as at late September 2007 the material had been voluntarily removed by Mr Wilson, that's the transcripts and the judgments.

45 Your Honour can get a flavour of Mr Wilson's website by perusing the annexure H to Ms Valentine's affidavit.

HIS HONOUR: When judgments are published on the Internet by this court, is there a statement that Crown copyright is not waived?

50 EL-HAGE: At the bottom of every judgment there is a statement that the Crown owns the copyright in the judgment. I make the point that in relation to,

5 for example, the Aus-T website, those web sites will be given permission by the Crown to publish, obviously - just to answer one of the points made by Mr Wilson. It became known to the defendants quite recently that the same materials were reup-loaded to the website. Your Honour will see from Ms Valentine's second affidavit that the same transcripts and judgments are now back on the website.

10 That's the short background, your Honour. The basis for making the application is set out in the written submissions and I only need to make one or two points. The main point being that the statement of claim is nothing more than a series of frivolous allegations, of course. There is no right to trial by Jury. The claims of malice and fraud are entirely groundless and made without any evidentiary foundation.

15 Can I just make the point that the plaintiff's complaint seems to be that, "I should be allowed to up-load copies of transcripts and judgments". They are now back on the website. It really now is a matter for the Crown to take any further action in relation to the reup-loading of the same materials.

20 The defendants seek the proceedings be dismissed under Rule 13.4 and 14.28. The defendants also seek costs under Rule 42.20. Unless your Honour has any further questions--

25 HIS HONOUR: What is the rule as to the contents of the statement of claim requiring a statement of the fact, matters and things relied on, in general?

EL-HAGE: Turning to Rule 6, I don't have that just now.

30 FOR JUDGMENT, SEE SEPARATE TRANSCRIPT

HIS HONOUR: I don't think there is need for any further orders?

EL-HAGE: No, your Honour.

35 BAUSKIS FROM FLOOR OF COURT: John Wilson is definitely right, this is a kangaroo court.

HIS HONOUR: Mr Bauskis, be careful, be very careful.

40 BAUSKIS FROM FLOOR OF COURT: In what way?

HIS HONOUR: I will not put up with contempt. Please Mr Bauskis.

45 BAUSKIS FROM FLOOR OF COURT: I am stating a fact. It is not contempt.

HIS HONOUR: What you have said is contemptuous.

BAUSKIS FROM FLOOR OF COURT: To who?

50 HIS HONOUR: To the court.

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