

Our Ref: AGM:201595
Your Ref: RJT

9 December 2010

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Dear Mr Todd

Julie Posetti and Chris Mitchell

We are instructed to act for Ms Julie Posetti in relation to the matters raised by your client, Mr Chris Mitchell, in your letter dated 29 November 2010 sent to our client on 1 December 2010.

Our client denies Mr Mitchell's assertion that she has defamed him.

The Twitter posts by our client about which your client complains were a fair and accurate summary of matters stated by Ms Wahlquist at the Journalism Education Association Conference on 25 November 2010. Whether or not the matters stated by Ms Wahlquist were right or wrong, they were matters that nevertheless related to a matter of public interest, namely, the conduct of journalism and the editorial policy of a major national newspaper in relation to climate change, being in itself a significant question of public interest, especially in the lead up to a Federal election. Our client in her Twitter posts gave a fair summary of the matters stated by Ms Wahlquist and clearly held out those posts as being reports of statements attributed to Ms Wahlquist and not our client's own views.

Your letter does not attempt to suggest that the Twitter posts were not a fair summary of what Ms Wahlquist said and, indeed, your client acknowledges that his initial conclusion that the posts did not reflect Ms Wahlquist's statements was a conclusion that he was misled into adopting. We note also that, while we appreciate that what is published in *The Australian* (of which your client serves as editor in chief) may not necessarily always reflect your client's own personal views and is not determinative of the position, it is nevertheless somewhat telling that the "Media diary" article titled "*The Posetti tapes*" appearing in the online version of *The Australian* on 30 November 2010 suggested that the "*Tweets are a fair summary of what Wahlquist said*".

As a fair report of proceedings of public concern (in particular, proceedings of a public meeting held in Australia related to a matter of public interest - see section 29(4)(l) of the *Defamation Act 2005 (NSW)* and its equivalents in other states), our client is entitled to the defence available under section 29(1) of the *Defamation Act*.

For similar reasons, our client is likely also entitled to a defence of common law qualified privilege.

Our client does not suggest that everything Ms Wahlquist said was necessarily true and our client did not adopt those views and comments as her own, but that does not disentitle our client from her right to publish a fair report of Ms Wahlquist's comments.

Brisbane
Melbourne
Norwest
Sydney

In all those circumstances, our client denies any liability for defamation. Accordingly, our client does not propose to publish the apology or correction requested by your client in your letter.

As to your client's invitation to our client to attend *The Australian* for a couple of days to observe how the news conference and editing process works, our client confirms that she would be happy to do so for the continuing development of her teaching practice and research career if your client similarly is prepared to reciprocate by attending some lectures given by her to journalism students next year and engage in discussion of the issues with staff and students in a manner appropriate to a university context.

Your client has also expressed a willingness to meet with our client to discuss this matter and if necessary to attend a mediation to which Ms Wahlquist will also be invited. Our client does not presently see the need for either a meeting or a mediation, but would consider in good faith any further such requests your client might have if further detail is provided as to what your client proposes discussing at any such meeting and the reason why your client considers such a meeting to be necessary.

Finally, we note your letter of 29 November 2010 has been made available publicly and in the circumstances our client and her employer, the University of Canberra, consider it only appropriate that this letter in reply also be made available publicly. Accordingly, it is proposed that a copy of this letter will be published on the blogs of both Ms Posetti (<http://www.j-scribe.com/>) and of the Vice Chancellor of the University of Canberra (<http://www.canberra.edu.au/blogs/vc/>).

Yours faithfully
HWL Ebsworth



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