

Annexure "E"

IN THE SUPREME COURT OF WESTERN AUSTRALIA
COMMERCIAL AND MANAGED CASES LIST

BETWEEN

CIV 1146 of 2008

WEST AUSTRALIAN NEWSPAPERS LIMITED

ABN 98 008 667 632

Plaintiff



NIGHTVIEW NOMINEES PTY LTD

in its own capacity and in its capacity as the
Trustee for the Dreghorn Family Trust
ABN 80 374 398 049

First Defendant

and

KENNETH GORDON DREGHORN

Second Defendant

and

JENNIFER ANNE DREGHORN

Third Defendant

and

ROBERT WADE DREGHORN

Fourth Defendant

and

PRISCILLA ANNE DREGHORN

Fifth Defendant

**ORDER FOR VACATION OF TRIAL DATES
MADE BY THE HONOURABLE JUSTICE NEWNES
11 MARCH 2009**

Allocated Judge: The Honourable Justice Newnes

Date of Document: 11 March 2009

Filed on behalf of: The Plaintiff

Date of Filing: 11 March 2009

Prepared by:

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Reference: BL:KB:09-5500-6196
Contact: Kailee Brown

IT IS ORDERED THAT:

- 1 The trial of the plaintiff's claim against the defendants set to take place on 25 and 26 March 2009 be vacated.

- 2 The trial of the plaintiff's claim against the defendants be adjourned to another date convenient to the parties after 31 July 2009.
- 3 The defendant's counterclaim against the plaintiff remain stayed pending determination of the plaintiff's claims.
- 4 The costs of and incidental to the orders contemplated in paragraphs 1 - 3 above be reserved.

BY THE COURT



THE HONOURABLE JUSTICE NEWNES

Annexure "F"

West Australian Newspapers Limited v Nightview Nominees

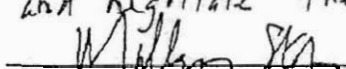
Supreme Court of Western Australia CIV 1146 of 2009

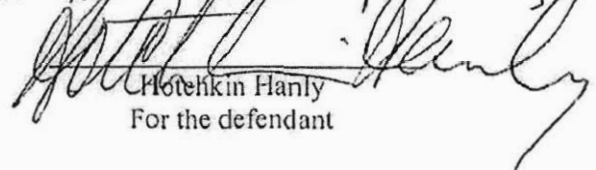
Interim Terms Agreed at Mediation

- 1 The parties apply to the Supreme Court for orders by consent that:
 - (a) The trial of the plaintiff's claim against the defendants set to take place on 25 and 26 March 2009 be vacated,
 - (b) The trial of the plaintiff's claim against the defendants be adjourned to another date convenient to the parties after 31 July 2009.
 - (c) The defendant's counterclaim against the plaintiff remain stayed pending determination of the plaintiff's claims.
 - (d) The costs of and incidental to the orders contemplated in paragraphs 1 - 3 above be reserved.

- 2 The intention is for representatives of each of WAN on the one hand and all of the Distributors of WAN's publications on the other, to meet at the times and generally in accordance with the procedures set out in the document attached for the purposes of:
 - (a) discussing and negotiating the terms of all of the distribution agreements; and
 - (b) discussing and negotiating WAN's proposals for the review of fees paid to the Distributors.

3. The intention following the processes referred to above is for the parties to ^{the} proceedings to meet to discuss and negotiate the final resolution of these proceedings.


Mallesons Stephen Jacques
For the plaintiff
(B. USCOMBE)


Helen Hanly
For the defendant

Proposed Procedure for Meetings to discuss Distribution Agreements

1. WAN agrees to commence discussions in good faith with a group of Distributors representing the following parties:

Australian Newsagents Association (ANF)

West Australian Distributors Association (WADA)

Those who are not members of the above (Independents)

2. WAN agrees that 2 members of each of the above can represent the Distributors at the meetings to be held to resolve grievances between WAN and the Distributors.

Six persons in total to be known as the 'Distributor Group'

3. Each of the Groups (ANF, WADA and Independents) will be authorised by their Members or in the case of the Independents by agreement with the Independent Distributors to attend and conduct the discussions with WAN in good faith to resolve the grievances between WAN and the Distributors to ultimately amend the Distribution Agreement and remove the grievances between WAN and the Distributors.

4. WAN will be represented by:

Rob Billington WAN Circulation Manager

Stuart Tough WAN Finance Representative

5. WAN proposes that Chairman of the meetings will be David Aspinall an Advisor to WAN.

Email address: david.aspinall@acequity.com.au

6. WAN will provide the WAN Company Secretary to take minutes. These Minutes will be distributed to the Distributor Group by the close of business the day following each meeting.

Any comments on the Minutes are to be made by the close of business in writing on the second business day following each meeting.

7. WAN will provide the meeting facilities unless the Distributor Group requires other facilities to be used independent of WAN.

WAN will provide the meeting facilities at WAN at no cost to the Distributor Group or their members.



Should independent facilities be required WAN would consider sharing the cost.

8. The Timetable for such discussions will commence on week commencing Monday 13th April 2009 and the Group together with WAN will meet each week through to week commencing 25th May 2009.

The day for the meetings is to be agreed by the Distributor Group with WAN to suit their working requirements

9. WAN proposes that each meeting be scheduled for 3 hours maximum each week at a regular time to be mutually agreed by the parties.

10. The period between today and the 13th April will allow the Distributor Groups to be formed and the grievances be documented with details and then be in a position to provide WAN with the names of the participants and no later than one week prior to the first meeting advise WAN of the grievances (a list with details) that are to be put on the agenda

11. It is agreed that only material grievances that affect the majority of the Distributors be listed.

Minor individual Distributer issues will have to be dealt with by the Distributor and WAN outside the proposed forum as detailed in this document.

12. WAN undertakes to provide a list of matters that they will put on the Agenda for discussion 1 week prior to the 13th April.

This list will be distributed to the Distributor Group as soon as that representative Group is known.

13. At the first meeting of the parties week commencing 13th April 2009 the list of grievances from the Distributor Group and the items identified by WAN will be reviewed in good faith by the parties and a final list be drawn so that the discussions can commence to be undertaken.

14. The Distributor Group is required to undertake to inform all the Distributors they represent between meetings and to obtain feedback and input so that any agreements reached reflect the majority view.

15. To enable WAN to address feedback from the Distributor Group at each meeting if possible all feedback should be submitted to the Company Secretary at WAN 1 business day prior to the next meeting.



16. For ease of communication and to ensure all communication is properly received WAN agrees that the Company Secretary Email address will be used for written communication with WAN.

Email: Peter.bryant@wanews.com.au

17. The Distributor Group are to provide appropriate Email addresses for communication from WAN.

18. WAN at their cost will have any redrafting of the Distribution Agreement undertaken.

19. At the end of the meeting process WAN agrees that they will host Distributor Meetings to table and discuss any amendments that are being 'drafted' into the Distribution Agreement that are to be agreed to by the individual Distributors that would take effect 1st July 2009.



The West Australian

West Australian Newspapers Limited

A.C.N. 008 667 632

ANNEXURE G

April 14, 2009

Dear Sir

I estimate that the annual contractual payments for the 2008/2009 financial year for each of the individual distributors of "the West Australian" Newspaper will range between a maximum of \$500,000 and a minimum of \$30,000.

I do not expect any negotiated amended agreements between WAN and its Distributors will result in payments to any distributor exceeding \$3 million annually.



Rob Billington
General Manager- Marketing and Circulation
West Australian Newspapers Limited

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