

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMON LAW DIVISION
MAJOR TORTS LIST**

S CI 2014 05269

**BETWEEN
ANTONIO MADAFFERI**

Plaintiff

and

**THE AGE COMPANY PTY LIMITED (ACN 004 262 702) & ORS (ACCORDING TO THE
SCHEDULE)**

Defendants

FURTHER AMENDED STATEMENT OF CLAIM

(Pursuant to the Order of the Honourable Justice Dixon made 22 May 2015)

Date of document: ~~30 September 19 December 2014~~ 12 June 2015

Filed on behalf of: The Plaintiff

Prepared by:

WMB Lawyers

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Attention:

Mr. J Bengasino/Mr. P Tatti

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1. The Plaintiff is and was at all material times:

- (a) born in Calabria, Italy in 1951;
- (b) well-known in the Italian community of Victoria;
- (c) a well-known and respected member of the Calabrian community of Victoria;
- (d) known to his family, friends and associates by the nick-name "Blondie";
- (e) well-known as an owner of the Waterfront Venues reception centre situated at Level 1, 19-22/427 Docklands Drive, Docklands in the State of Victoria;
- (f) well-known as having business interests, including stalls at the wholesale fruit and vegetable market, property developments, supermarkets and an involvement in the nationwide La Porchetta pizza chain;
- (g) well-known as a host of the Bruce Campaign Fundraising Dinner held at the Waterfront Venues reception centre on 1 March 2013 to raise funds to assist the election campaign of the Liberal Party candidate for the Federal electorate of Bruce;

- (h) well-known as one of the organisers of a charitable event known as the My Room Fruits of Life Gala Ball held in April 2014 to raise money for the Royal Children's Hospital; and
 - (i) the brother of Francesco Madafferi.
2. The First Defendant is and was at all material times:
- (a) a company incorporated in accordance with the laws of Victoria;
 - (b) capable of being sued in its corporate name;
 - (c) the proprietor and publisher of a daily newspaper called *The Age*, which has a wide and extensive print publication throughout the State of Victoria and each of the States and Territories of the Commonwealth of Australia;
 - ~~(d) the owner and publisher of the Internet site located at the URL address www.theage.com.au (the Website), which has a wide and extensive readership throughout Australia;~~
 - (e) the employer of each of the Second, Third, Fourth and Fifth Defendants, for whose actions the First Defendant is and was vicariously liable.
3. The Second through Fifth Defendants inclusive are and were at all material times journalists employed or retained by the First Defendant.

3A The Sixth Defendant is and was at all material times:

- (a) a company incorporated in accordance with the laws of Victoria;
- (b) capable of being sued in its corporate name;
- (c) the owner and publisher of the Internet sites located at the URL address www.theage.com.au (the **Age Website**) and at www.smh.com.au (the **Sydney Morning Herald Website**), (collectively, the **Websites**) which have a wide and extensive readership throughout Australia.

Publication, Identification and Defamatory Meaning

4. Between 8 March 2014 and ~~11 September December 2014~~ 28 April 2015, the First Defendant (in the print edition of *The Age*, and / or the Sixth Defendant (on the Websites),

together with each of the other Defendants identified below as authors, caused to be published in *The Age* and/or on the Websites the following articles:

- (a) on 8 March 2014, on the front page and page 7 and on the Websites, "Mafia link to Melbourne pizza wars", authored by the Second and Third Defendants (the **First Article**);
- (b) on 23 May 2014, on the front page and pages 6 and 7 and on the Websites, "Godfather Claims, Libs take money of Mafia man", authored by the Second, Third and Fourth Defendants (the **Second Article**);
- (c) on 24 May 2014, on pages 26 and 27 and on the Sydney Morning Herald Website, "Libs link to market Mafia man", authored by the Second, Third and Fourth Defendants, and on the Age Website, authored by the Second Defendant (the **Third Article**);
- (d) on 24 May 2014, on page 6, "Bungle leaves convicted Mafioso in community", and on the Websites, "Immigration bungle leaves convicted Mafioso in community", authored by the Second, Third and Fifth Defendants (the **Fourth Article**);
- (e) on 27 May 2014, on page 8 and on the Websites, "MP has a ball with alleged Mafia boss", authored by the Second, Third and Fifth Defendants (the **Fifth Article**);
- (f) on 29 May 2014, on page 12 and on the Age Website, "MP attacks Liberals over 'blood money'", authored by the Second and Third Defendants (the **Sixth Article**);
- (g) on 1 September 2014, on the front page and page 6, "Labor man's Mafia links" together with an accompanying photograph, and on the Websites, "Labor man Michael Teti's Mafia links", authored by the Second and, Third ~~and Fifth~~ Defendants (the **Seventh Article**);
- (h) on 11 December 2014, on the front page and page 12 and on the Websites, "Police in Crown ban on 'mobster'", authored by the Second and Third Defendants (the **Eighth Article**);

- (i) on 23 April 2015, on the Websites, “Adult parole board chair Bill Gillard under pressure to quit over legal tips to alleged mafia boss Tony Madafferi”, authored by the Second and Third Defendants (the **Ninth Article**);
 - (j) on 24 April 2015, on the front page, “Parole board head Bill Gillard has advised the alleged head of Melbourne’s mafia on how to overcome his ban from Crown Casino, which is why the state government wants him to ... RESIGN”, authored by the Second and Third Defendants (the **Tenth Article**);
 - (k) on 24 April 2015, on the Age Website, “Parole board boss Bill Gillard digs in after Tony Madafferi mafia ‘advice’ claim”, authored by Mr. Nino Bucci (the **Eleventh Article**);
 - (l) on 27 April 2015, on the Websites, and on 28 April 2015, on page 7, in substantially the same form but with the differences noted in paragraph 36 below, “Parole board chief Bill Gillard stands down after mafia link”, authored by the Second and Third Defendants (the **Twelfth Article**).
- (collectively, the **Defamatory Articles**).

PARTICULARS

Copies of each of the First to ~~Seventh~~ ~~Eighth~~ Twelfth Articles as they appeared in *The Age* and on the Website are Annexures A — ~~HG~~ L hereof, respectively.

The First Article

5. The First Article was of and concerning the Plaintiff.

PARTICULARS

The First Article identifies the Plaintiff because it refers to and/or describes a person:

- (i) by the name "Blondie";
 - (ii) well respected within the Calabrian community;
 - (iii) who is 63-years-old;
 - (iv) who has a financial interest in the Waterfront Venues reception centre at Docklands.
6. In its natural and ordinary meaning, the First Article was defamatory of the Plaintiff and meant and was understood to mean that:
 - (a) the Plaintiff is the leader of the Mafia in Melbourne;

- (b) the Plaintiff as the leader of the Mafia, was involved in shooting attacks upon three pizza restaurants in Essendon and Brunswick as part of an extortion racket aimed at improving the market share of his own pizza business;
- (c) the Plaintiff as the leader of the Mafia in Melbourne, has established a powerful criminal network across Australia;
- (d) the Plaintiff is involved in a large scale illegal drug trafficking enterprise; and
- (e) the Plaintiff is involved in a substantial number of crimes including murder, gunshot wounding and arson.

The Second Article

7. The Second Article was of and concerning the Plaintiff.

PARTICULARS

- (i) The Second Article identifies the Plaintiff because it refers to and/or describes a person:
 - (A) who, on 1 March 2013, helped host the "Bruce Campaign Fundraising Dinner" at Waterfront Venues which is described in the Second Article as "his Docklands reception centre";
 - (B) with business interests, including stalls at the wholesale fruit and vegetable market, property developments, supermarkets and an involvement in the nationwide La Porchetta pizza chain;
- (ii) further, the subject matter of the Second Article related to the following articles published by the First Defendant in *The Age* and on the Website in 2008/2009, all of which identified the Plaintiff by his name:
 - (A) on 20 September 2008, a front page article entitled "Visa ruling came after donation" and continuing on page 6 of the same edition entitled "Deportation overruled after donation to Liberal Party";
 - (B) on 23 September 2008, a front page article entitled "Vanstone: why I helped suspected gangster";
 - (C) on 23 February 2009, a front page article entitled "Liberals in cash-for-visa allegations" and continuing on page 11 of the same edition entitled "Men of influence — approved";
 - (D) on 24 February 2009, a front page article entitled "Police reopen visa probe";
 - (E) on 26 March 2009, an article published on page 3 entitled "Court arrest lead to murder plot charges"; and
 - (F) on 10 November 2009, a front page article entitled "Vanstone quizzed in 'Mafia' Case: Police probe donations to Liberal Party",

(together, the **2008/2009 Articles**);

- (iii) copies of each of the 2008/2009 Articles are in the possession of the solicitors for the Plaintiff and can be inspected upon appointment;
- (iv) many readers of Second Article had read the 2008/2009 Articles and thereby identified the Plaintiff.

8. In its natural and ordinary meaning, the Second Article was defamatory of the Plaintiff and meant and was understood to mean that:

- (a) the Plaintiff is the leader of a well established Calabrian Mafia cell in Melbourne;
- (b) the Plaintiff helped bankroll a Liberal Party marginal federal seat in the 2013 election using the proceeds of crime;
- (c) the Plaintiff is a crime figure involved in murder, gunshot wounding and arson;
- (d) the Plaintiff is a hitman; and
- (e) the Plaintiff paid a bribe to the Howard government in order to procure a visa for his associate, an alleged drug trafficker and criminal.

The Third Article

9. The Third Article was of and concerning the Plaintiff.

PARTICULARS

- (i) The Third Article identifies the Plaintiff because it refers to and/or describes a person:
 - (A) who is a Calabrian-born businessman;
 - (B) who owns a \$4 million Docklands reception centre;
 - (C) who hosted a fundraiser for the campaign to win the federal seat of Bruce for Liberal candidate Emanuele Cicchiello at the Docklands reception centre;
 - (D) identified by the nickname "Blondie";
 - (E) who has a business empire throughout Victoria, stretching from the wholesale markets in Footscray to market gardens and supermarkets in Melbourne's outer northern and southern suburbs and beyond;
 - (F) with a stake in the nationwide La Porchetta pizza chain;
 - (G) who is well respected within the Calabrian community;
- (ii) the Third Article referred to the 2008/2009 Articles. The Plaintiff otherwise refers to and repeats sub-paragraphs (ii) — (iv) of the particulars under paragraph 7.

10. In its natural and ordinary meaning, the Third Article was defamatory of the Plaintiff and meant and was understood to mean that:

- (a) the Plaintiff has murdered two people;
- (b) the Plaintiff is the leader of the Calabrian Mafia in Melbourne;

- (c) the Plaintiff is a Mafia Godfather;
- (d) the Plaintiff paid a bribe to the Howard government in order to procure a visa for an alleged drug trafficker and criminal; and
- (d) the Plaintiff as been involved in criminal activities including murder, gunshot wounding and arson.

The Fourth Article

11. The Fourth Article was of and concerning the Plaintiff.

PARTICULARS

- (i) The Fourth Article identifies the Plaintiff because it refers to and/or describes the person who on 1 March 2013, helped host the \$250-ahead "Bruce Campaign Fundraising Dinner" at his Docklands reception centre;
 - (ii) the subject matter of the Fourth Article related to the 2008/2009 Articles. The Plaintiff otherwise refers to and repeats sub-paragraphs (ii) — (iv) of the particulars under paragraph 7.
12. In its natural and ordinary meaning, the Fourth Article was defamatory of the Plaintiff and meant and was understood to mean that the Plaintiff:
- (a) is the leader of the Calabrian Mafia in Melbourne;
 - (b) provided corrupt Mafia donations to the Liberal Party in order to procure a visa for a Mafia criminal figure; and
 - (c) has been involved in criminal activities including murder, gunshot wounding and arson.

The Fifth Article

13. The Fifth Article was of and concerning the Plaintiff.

PARTICULARS

- (i) The Fifth Article identifies the Plaintiff because it refers to and/or describes the person:
 - (A) who, hosted the My Room Fruits of Life gala ball at Docklands on April 17, being a charity fund-raiser event, attended by Liberal MP Ken Smith;
 - (B) who hosted a fundraising event for the marginal federal seat of Bruce in March 2013 which was attended by federal Liberal MP Russell Broadbent;
- (ii) the subject matter of the Fifth Article related to the 2008/2009 Articles. The Plaintiff otherwise refers to and repeats sub-paragraphs (ii) — (iv) of the particulars under paragraph 7.

14. In its natural and ordinary meaning, the Fifth Article was defamatory of the Plaintiff and meant and was understood to mean that the Plaintiff:

- (a) is a Mafia boss; and
- (b) failed to account to the Royal Children's Hospital for funds raised at a charity event that he hosted in its name.

The Sixth Article

15. The Sixth Article was of and concerning the Plaintiff.

PARTICULARS

The Sixth Article identifies the Plaintiff because it refers to and/or describes the person who hosted a fundraising event at Docklands in 2013 to raise funds for the Liberal campaign to win the marginal federal seat of Bruce, contested by Liberal candidate Emanuele Cicchiello.

16. In its natural and ordinary meaning, the Sixth Article was defamatory of the Plaintiff and meant and was understood to mean that the Plaintiff:

- (a) is a Mafia boss;
- (b) has provided "blood money" to the Liberal Party in the form of donations; and
- (c) is a criminal.

The Seventh Article

17. The Seventh Article was of and concerning the Plaintiff.

PARTICULARS

- (i) The Seventh Article identifies the Plaintiff because it refers to and/or describes the person:
 - (A) known as "Blondie";
 - (B) who is the brother of "Shorty", in circumstances where a photograph of Francesco Madafferi accompanies the Seventh Article;
- (ii) the subject matter of the Seventh Article related to the 2008/2009 Articles. The Plaintiff otherwise refers to and repeats sub-paragraphs (ii) — (iv) of the particulars under paragraph 7.

18. In its natural and ordinary meaning, the Seventh Article was defamatory of the Plaintiff and meant and was understood to mean that the Plaintiff:

- (a) is the boss of the Melbourne Mafia;
- (b) is involved in blackmail, extortion and murder;

- (c) provided corrupt Mafia donations to the Liberal Party in order to procure a visa for his brother, a Mafia criminal figure.

The Eighth Article

19. The Eighth Article was of and concerning the Plaintiff.

PARTICULARS

The Eighth Article identifies the Plaintiff by name.

20. In its natural and ordinary meaning, the Eighth Article was defamatory of the Plaintiff and meant and was understood to mean that:

- (a) the Plaintiff is the leader of Melbourne's mafia;
(b) the Plaintiff is a mobster who has been attending Crown Casino to engage in money laundering and to meet other organized crime figures.

The Ninth Article

21. The Ninth Article was of and concerning the Plaintiff.

PARTICULARS

The Ninth Article refers to the Plaintiff by name.

22. In its natural and ordinary meaning, the Ninth Article was defamatory of the Plaintiff and meant and was understood to mean that:

- (a) the Plaintiff is the leader of Melbourne's Mafia; and
(b) the Plaintiff is an organised crime figure who has been attending Crown Casino to engage in money laundering.

The Tenth Article

23. The Tenth Article was of and concerning the Plaintiff.

PARTICULARS

The Tenth Article refers to the Plaintiff by name.

24. In its natural and ordinary meaning, the Tenth Article was defamatory of the Plaintiff and meant and was understood to mean that:

- (a) the Plaintiff is the leader of Melbourne's Mafia; and

- (b) the Plaintiff is an organised crime figure who has been attending Crown Casino to engage in money laundering.

The Eleventh Article

25. The Eleventh Article was of and concerning the Plaintiff.

PARTICULARS

The Eleventh Article refers to the Plaintiff by name.

26. In its natural and ordinary meaning, the Eleventh Article was defamatory of the Plaintiff and meant and was understood to mean that:

- (a) the Plaintiff is the leader of Melbourne's Mafia; and
(b) the Plaintiff is an organised crime figure who has been attending Crown Casino to engage in money laundering.

The Twelfth Article

27. The Twelfth Article was of and concerning the Plaintiff.

PARTICULARS

The Twelfth Article refers to the Plaintiff by name.

28. In its natural and ordinary meaning, the Twelfth Article was defamatory of the Plaintiff and meant and was understood to mean that:

- (a) the Plaintiff is the leader of Melbourne's Mafia; and
(b) the Plaintiff is an organised crime figure who has been attending Crown Casino to engage in money laundering.

Republication on the Sydney Morning Herald Website

- ~~21. Further, each of the First, Second, Third, Fourth, and Fifth Articles were republished on the Internet site located at the URL address www.smh.com.au (the SMH Website), which has a wide and extensive readership throughout Australia (the Republications).~~

- ~~22. Each of the Republications was:~~

- (a) ~~intended by the First Defendant;~~
(b) ~~authorised by the First Defendant; and/or~~

- (c) ~~the natural and probable consequence of publication of the Defamatory Articles on the Website by the First Defendant, and the First Defendant is accordingly liable for the Republications.~~

Loss and Damage

~~2329.~~ As a result of the publication of the Defamatory Articles ~~and the Republications by the Defendants, or any one or more of them,~~ the Plaintiff has been held up to ridicule and contempt, has been seriously injured in his credit and reputation, has suffered hurt and embarrassment, and has suffered and will continue to suffer loss and damage.

Aggravated Damages

~~2430.~~ At the time each of the Defamatory Articles was published by the Defendants:

- (a) the Defendants, or one or more of them, were aware that:
- (i) on 4 May 2000, the Administrative Appeals Tribunal made an Order under s 35 of the *Administrative Appeals Tribunal Act 1975* (Cth) that the name of the Plaintiff and all details of evidence relating to the Plaintiff not be published in any newspaper (the **Order**); and
 - (ii) the Order remains unrevoked and unvaried;

PARTICULARS

- (A) The Order was made by Deputy President Blow OAM QC. A copy of the Order is in the possession of the lawyers for the Plaintiff and can be inspected upon appointment.
 - (B) The First Defendant had been notified about the Plaintiff's concerns that in publishing material about the Plaintiff, the Defendants, or any one of them, would breach the Order, as the Plaintiff's legal representatives had written to the legal representatives of the First Defendant advising of the existence of the Order and/or raising concerns about a breach of the Order, namely by letters dated 6 February 2009, 9 February 2009, 10 February 2009, 26 March 2009 and 17 December 2009. Copies of the letters are in the possession of the solicitors for the Plaintiff and may be inspected by appointment.
- (iii) each of the Second, Third and Fourth Articles purport to publish details of the evidence contained in the statement of Wayne Bastin dated 12 May

1998, which ~~statement~~ was evidence relating to the Plaintiff and subject to the Order;

- (b) the First Defendant had received and failed to act upon a Concerns Notice dated 16 July 2009 relating to various of the 2008/2009 Articles;
- (c) the 2008/2009 Articles remained on the Website and were therefore available to be downloaded and read in the State of Victoria despite an order made by the County Court of Victoria on 21 May 2014 which prohibited publication of the name Madafferri in connection with a number of matters that were the subject of the 2008/2009 Articles;
- (d) the Defendants failed to afford the Plaintiff a reasonable opportunity to respond to the statements contained ~~therein~~ in the Defamatory Articles; ~~and~~

PARTICULARS

- (A) On 7 March 2014, the Third Defendant wrote to the solicitors for the Plaintiff and advised that the First Defendant intended to publish a story on 8 March 2014 concerning a number of matters relating to the Plaintiff and inviting comment by the Plaintiff. The email stated that the proposed story would not accuse the Plaintiff of any extortion or other criminal conduct.
- (B) On 20 May 2014 at 3.04 pm, the Second Defendant sent an email to the solicitors for the Plaintiff advising the Plaintiff's solicitors that the First Defendant was preparing to write a story about the Plaintiff and requesting his response to 14 questions before close of business on 21 May 2014.
- (C) On 20 May 2014, the solicitors for the Plaintiff wrote to the Second Defendant raising concerns about past defamatory articles concerning the Plaintiff and requesting a copy of the proposed article, all material supporting any allegation raised in the Second Defendant's email dated 20 May 2014, and an undertaking not to publish pending sufficient time for the Plaintiff to receive advice on the matter.
- (D) On 21 May 2014, the solicitors for the Defendants wrote to the solicitors for the Plaintiff and advised that the requested materials would not be forthcoming and advising that responses to the list of questions would be fairly reflected in any article published.
- (E) On 21 May 2014, the Plaintiff unsuccessfully sought an injunction to prevent publication of any article concerning the Plaintiff.

- (F) On 21 May 2014, the solicitors for the Plaintiff wrote to the solicitors for the Defendants requesting certain documents and noting that provision of such documents, including a draft of any article, would make "any response forthcoming from our client far more meaningful".
- (G) On 22 May 2014, the solicitors for the Defendants emailed the solicitors for the Plaintiff and reiterated that none of the requested documents would be forthcoming.
- (H) On 23 May 2014, the First Article was published.
- (I) On 9 December 2014, the Third Defendant wrote to the Plaintiff's solicitors advising that the First Defendant was intending to publish a further story related to the activities of the Plaintiff and extending the Plaintiff an opportunity to answer questions from the First Defendant about the story, as well as previous questions asked of the Plaintiff.
- (J) The Plaintiff's solicitor wrote to the Third Defendant on 9 December 2014 and advised that as Supreme Court proceedings were on foot it was appropriate that such communications are made through the lawyers representing the Defendants.
- (K) No further communication on the subject was received from the Defendants, and on 11 December 2014, the Eighth Article was published.
- (L) At 12.34pm on 23 April 2015, Mr Paolo Tatti, solicitor for the Plaintiff, received an email from Mr Peter Bartlett of Minter Ellison, lawyers for the Defendants, advising that his client proposed to publish an article about the Plaintiff, and seeking his response to a series of questions.
- (M) At 2.08pm on 23 April 2015, Mr Tatti responded to Mr Bartlett's email and stated that he would be out of the office until early evening and would be unable to obtain instructions until then.
- (N) At 6.03pm on 23 April 2015, Mr Tatti telephoned Mr Bartlett and stated that the Plaintiff was concerned that confidential information was to be published, sought that Mr Bartlett obtain instructions from his client to undertake not to publish any article without 24 hours' notice, and said that he was obtaining instructions to bring an application for an injunction.
- (O) At 6.55 pm on 23 April 2015, Mr Tatti received a telephone call from Mr Bartlett in which Mr Bartlett indicated, inter alia, that his client would not provide the undertaking and that at 7.30pm the article would be published.
- (P) At 7.06 pm on 23 April 2015, Mr Tatti telephoned Mr Bartlett and confirmed that he had instructions to make an application to the Supreme Court for urgent interlocutory relief.
- (Q) At 7.18pm, the First and /or Sixth Defendants uploaded and thereby made available for publication, the Ninth Article.

- (e) the Defendants, or one or more of them, knew that the Plaintiff has never been charged with a criminal offence ~~any crime~~ and that evidence concerning him in

proceedings in the ~~Coroners Court of Victoria and the~~ Administrative Appeals Tribunal, which is referred to in the Defamatory Articles, has been held to be unreliable and/or of no weight.

PARTICULARS

- (A) The First to Fourth Articles all state that the Plaintiff has not been charged with a criminal offence.
- (B) Deputy President A M Blow OAM, QC, stated in his decision in the AAT dated 7 June 2000 at [19] that in relation to the evidence from third party sources in the statement of Sergeant Bastin of Victoria Police he would "still not give that information any weight" and that "Sgt Bastin has reproduced two hearsay statements, one of them likely to have been the produce of guesswork, from two individuals of doubtful reliability, either of whom may have had good reason for lying".

2531. The First Defendant has received two Concerns Notices sent on behalf of the Plaintiff in relation to the Defamatory Articles and has failed to make any Offer of Amends;

PARTICULARS

- (i) Concerns Notice from WMB Lawyers to the solicitors for the First Defendant, Minter Ellison, dated 13 June 2014;
- (ii) Concerns Notice from WMB Lawyers to the solicitors for the First Defendant, Minter Ellison, dated 19 September 2014.

2632. On 11 December 2014, the Third Defendant wrote and the First Defendant published a further article, the Eighth Article, of and concerning the Plaintiff.

33. On 23, 24, 27 and 28 April 2015, the Second and Third Defendants wrote and thereby published and the First Defendant and/or Sixth Defendant published further articles, being the Ninth, Tenth and Twelfth Articles, of and concerning the Plaintiff.

34. The First and/or Sixth Defendants further published the Eleventh Article of and concerning the Plaintiff.

35. The First and/or Sixth Defendants published the Ninth Article in circumstances where they knew, or ought to have known, that the Plaintiff was making an application to the Supreme Court of Victoria for an urgent injunction to prevent publication.

PARTICULARS

The Plaintiff refers to and repeats paragraphs (L) to (Q) of the particulars to paragraph 30(d) above.

36. The Twelfth Article as it appears in *The Age* falsely suggests that the Plaintiff was the subject of recent allegations of involvement in two murders as follows: “Mr Madafferi’s suspected mafia involvement and organised crime associations have been aired in multiple court cases between the 1990s and last year when he was accused in coronial inquests of involvement in two murders.”
37. In paragraph 8A at (C)(vi)(a) of the Amended Defence dated 13 February 2015 the Defendants wrongly pleaded that the Plaintiff was named in a National Crime Authority report about Operation Cerberus.
38. Each of the First to Ninth, Eleventh and Twelfth Articles remain to be downloaded from and read on the Age Website and / or the Websites.
2739. By reason of the matters in paragraphs 241—26 30-38, the Defendants’ conduct in publishing the articles was improper, unjustifiable or lacking in bona fides, and the hurt, distress, embarrassment and humiliation suffered by the Plaintiff, has been increased and accordingly he is entitled to an award of aggravated damages.

Breach of Confidence

40. In early 2015, the Plaintiff met with The Hon. Mr Bill Gillard QC to discuss the Plaintiff’s private and confidential legal affairs.
41. The fact that the Plaintiff met with Mr Gillard, and substance of the matters discussed by the Plaintiff and Mr Gillard, were confidential to the Plaintiff and comprise his confidential information (Confidential Information).

PARTICULARS

The fact that the Plaintiff met with Mr Gillard and the matters discussed by them concerned the Plaintiff’s private legal affairs and were accordingly, inherently private and confidential in nature.

42. The Confidential Information was received by the Defendants in circumstances which imported an obligation of confidence on the Defendants, and the Defendants at all times knew, or ought to have known, that the Confidential Information was to remain confidential.

PARTICULARS

The Plaintiff is currently unable to provide particulars as to how the Confidential Information came to be in the possession of the Defendants. Further particulars will be provided following discovery and interrogation herein.

43. In breach of their obligations of confidence, and without the consent of the Plaintiff, the Defendants wrongfully divulged, threatened to divulge and, unless restrained, will continue to divulge, the Confidential Information (or parts thereof).

PARTICULARS

- (i) The Plaintiff refers to and repeats paragraphs 4(i)-(l) above.
(ii) Each of the Ninth to Twelfth Articles revealed the Confidential Information.

44. As a result of such disclosures, the Plaintiff has suffered loss and damage and will, unless the Court restrains the Defendants, continue to suffer loss and damage.

45. The Plaintiff has requested the Defendants to refrain from using such Confidential Information, but the Defendants have refused to do so.

PARTICULARS

The Plaintiff refers to and repeats paragraphs (L) to (Q) of the particulars to paragraph 30(d) above.

AND THE PLAINTIFF CLAIMS

- A. Damages;
B. Aggravated damages;
C. A permanent injunction preventing the further publication of the above defamatory imputations and the Confidential Information;
D. Costs;
E. Interest pursuant to statute; and
F. Such further or other Order as is deemed proper and appropriate by this Honourable Court.

Dated this 19th 12th day of September December 2014 June 2015

G.L. Schoff

M. Marcus

.....
WMB Lawyers
Lawyers for the Plaintiff

SCHEDULE OF PARTIES

BETWEEN

ANTONIO MADAFFERI

First Plaintiff

and

THE AGE COMPANY PTY LTD (ACN 004 262 702)

First Defendant

and

NICK MCKENZIE

Second Defendant

and

RICHARD BAKER

Third Defendant

and

ROYCE MILLAR

Fourth Defendant

and

JOSH GORDON

Fifth Defendant

and

FAIREAX DIGITAL AUSTRALIA & NEW ZEALAND PTY LTD

(ACN 087 887 456)

Sixth Defendant

Dated: ~~30 September 2014~~ ~~19 December 2014~~ 12 June 2015