

17 March 2020

Mr Mark Prytz

By email: markp@sundowngolf.net

Dear Mr Prytz,

DEFAMATORY ARTICLE CONCERNING MR J. T. (JACK) RUSH RFD QC

We act for Mr J. T. Rush RFD QC.

Peter Gordon

SENIOR PARTNER E: pgordon@gordonlegal.com.au T: (03) 9603 3000

NOT FOR PUBLICATION

On or about 17 February 2020 an article was published on a website – “Xavier College Kew Sex Abuse: Jesuit and Catholic Church – Clerical Institutional Abuse Forum (Australia)” that in part referred to Mr Rush and purported to provide an account of Mr Rush’s role in a mediation held in August 2016 and made other comments about him.

A copy of the article is attached.

We are instructed that you are the author of the article and responsible for its publication on the website.

The article is defamatory of Mr Rush, has harmed and continues to harm his reputation and to cause him distress.

The article is factually incorrect.

The article commences with you setting out what you state is the experience of a survivor of sexual abuse who was seeking compensation against the Society of Jesus and described his experience “as shown above”. Above the article are depicted a number of photographs including photographs of Mr Rush, dressed in robes of a Supreme Court Judge and variously described as “*Jack Rush QC Old Xaverian*” and as the “*Independent Mediator*”.

The mediation referred to was conducted in August 2016. The survivor you refer to was P. H. who was claiming compensation for sexual abuse when a student at St Ignatius College Riverview NSW, not Xavier College, a fact you failed to set out in your commentary.

In the article you state *“he [P. H.] said the independent mediator, who just happened to*

be an Old Xaverian, was biased towards the Society of Jesus.”

Mr Rush was not the mediator at the mediation as is asserted. The mediator, consented to by the lawyers for P. H. and the Society of Jesus was Mr David Martin who is not an Old Xaverian and has an excellent reputation as a mediator in such cases. Mr Rush represented the Society of Jesus at the mediation. The mediation concluded with the matter resolving by agreement – P. H. being represented by experienced lawyers.

Your reference to Mr Rush as a biased mediator is an unfounded, egregious attack on the character of Mr Rush and his reputation as a former Supreme Court Judge and now senior barrister.

You further state in the article *“I am very annoyed at Jack Rush who was at Xavier College at the same time I was. Has he no feelings or compassion for his fellow Jesuit educated students who were abused and harmed so badly?”*

The article clearly conveys meaning that Mr Rush:

- (a) seriously misconducted himself in his role as a mediator because he was biased in favour of the defendant; and
- (b) is a person who has no feelings or compassion towards victims of sexual abuse.

Mr Rush has acted over many years for victims of sexual abuse both in Victoria and other States. The statements set out above questioning Mr Rush’s feelings and compassion for victims of sexual abuse are unjustified, unwarranted, a further attack on the integrity and reputation of Mr Rush

and demonstrates an ignorance of barrister rules concerning briefing. The article has been and remains a source of hurt and distress to Mr Rush.

This letter is to demand:

- (a) The article be removed from the website immediately and you inform the writer upon its removal;
- (b) An apology to appear on the front page of the website for a period of 21 days (apology attached); and
- (c) The payment of \$750 on account of our legal costs.

Your response to the demands above will determine whether legal proceedings are taken against you.

Please note that this letter constitutes a concerns notice within the meaning of s.14 of the *Defamation Act 2005* (Vic).

Please contact the writer, in writing, to inform of your response by 5pm Wednesday,

18 March 2020. Yours faithfully,

Peter Gordon Senior Partner **Gordon Legal**

Apology

On or about the 17th February 2020 I published on this website a commentary concerning a mediation held in August 2016 between a person claiming damages against the Society of Jesus for historical sexual abuse alleged to have occurred while the person was a student at St Ignatius College, Riverview, New South Wales.

In that commentary I stated that Mr Jack Rush QC was the independent mediator. I further stated Mr Rush, an Old Xaverian, was biased towards

the Society of Jesus. This comment is factually incorrect. Mr Rush was not the mediator in this matter; he represented the Society of Jesus. The matter resolved at mediation. I accept that this factually incorrect statement concerning Mr Rush unfairly and unjustifiably impacts on his professional reputation and I regret and apologise for any hurt and distress caused as a consequence.

Further in my commentary I questioned whether Mr Rush held feelings or compassion for victims of sexual abuse. My questioning of Mr Rush's feelings and compassion for victims of sexual abuse was without any proper foundation. I recognise and accept that over many years Mr Rush has acted for and supported victims of sexual abuse across Australia. I regret and apologise for the hurt and distress caused to Mr Rush by my comments.