

# [***Sex, drugs and checkbook journalism: Media under scrutiny as reopened defamation case grips Australia***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BRC-0RV1-DY7V-G0JF-00000-00&context=1516831)

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**Body**

Brisbane, Australia (CNN) &#8212; When an Australian judge made the unusual decision to reopen a blockbuster defamation trial brought by an alleged rapist against a media company, he declared, "Let sunlight be the best disinfectant."

That's how claims later described by Justice Michael Lee as "sordid" found their way into the public sphere, giving a startling insight into the way producers from a major television network allegedly secured an interview with the former government staffer with illicit drugs, sex workers, a golf trip and expensive meals.

The defamation case enthralled the Australian public when the main parties took the stand last year, and anticipation was high for a ruling on Thursday. But the arrival of a new witness saw thousands tune in to watch the reopened case as it was broadcast live on YouTube.

The origins of the story date back to 2019, when government staffer Brittany Higgins alleged she was raped by a colleague in Parliament House after a night of drinking in Canberra. The man she accused of the crime, Bruce Lehrmann, vehemently denied any sexual activity took place, and in court he pleaded not guilty to one count of sexual intercourse without consent.

But the trial was abandoned in 2022 due to [*juror misconduct*](https://www.cnn.com/2022/10/26/australia/australia-lehrmann-higgins-trial-intl-hnk/index.html). Rather than requesting a retrial, prosecutors dropped the charges, saying more court action would pose an [*"unacceptable risk" to Higgins' health*](https://www.cnn.com/2022/12/01/australia/brittany-higgins-sexual-assault-charges-dropped-intl-hnk/index.html).

That left Lehrmann with no means to disprove the allegations, so he took defamation action against media companies for their initial reporting of the case.

Two outlets settled the claim by paying hundreds of thousands of dollars in legal costs. But Network Ten and journalist Lisa Wilkinson chose to fight it using a truth defense - essentially tasking their lawyers to prove on the balance of probabilities that Lehrmann did rape Higgins.

The alleged rape

Two years after the night in question, Higgins went public in 2021 with the allegation that she'd been raped in Parliament House.

In an exclusive interview with Ten's Lisa Wilkinson for "The Project," Higgins recalled having drinks with co-workers in March 2019, and catching an Uber with a man to Parliament House, where he allegedly raped her on a minister's couch.

The story sent tremors through Australian ***politics*** and prompted an [*apology from then Prime Minister*](https://www.cnn.com/2021/02/16/australia/australia-canberra-rape-allegations-intl-hnk/index.html) Scott Morrison, who promised to investigate the culture within the legislature.

"The Project" story didn't name Lehrmann. But he claimed it included enough information to identify him as the alleged rapist. Lehrmann couldn't pursue the defamation charge while his criminal trial was underway, so he sought permission from the court to extend the period to bring a claim, which is why it took so long to reach court.

Evidence in the defamation trial was presented in late 2023, grabbing headlines as Lehrmann and Higgins accused each other in court of lying about what had happened.

It was the first time Lehrmann had given court testimony - during his criminal trial, he exercised his right not to take the stand.

However, the first time the Australian public heard his side of the story - in his own words, on camera - was a few months before on Seven's "Spotlight" program.

"Let's light some fires," Lehrmann said, in an episode that aired in June, 2023.

That interview - and the months that led up to it - was the focus of the new evidence in court this week, as former "Spotlight" producer Taylor Auerbach revealed stunning claims about how the production team negotiated the interview with Lehrmann.

Network Ten's barrister Matthew Collins KC had argued that Auerbach's testimony was important as it spoke to Lehrmann's credibility, which could impact the size of any payout, should he win the defamation case.

The producer's allegations

Sitting in a dark suit and tie, Auerbach took frequent sips of water as he sat in court to answer questions about his role in setting up the Lehrmann interview.

He said he'd been assigned to be Lehrmann's "babysitter," which he took to mean establishing a rapport with him to convince him to give them the sought-after exclusive.

After one dinner in January 2023, Auerbach said he and Lehrmann went to a hotel room, allegedly paid for by Seven, where he said Lehrmann produced a bag of cocaine.

"He pulled that out and started to put it on a plate and then started talking to me about a prospective 'Spotlight' story and his desire to order prostitutes to the Meriton that night and began Googling a series of websites to try and make that happen," Auerbach told the court.

The new material submitted to court included a long text message Auerbach said he sent to a senior "Spotlight" producer after meeting with Lehrmann's media advisor.

In the message, Auerbach said a potential payment of around 200,000 Australian dollars ($132,000) had been suggested for the interview. The advisor had told him that Lehrmann was also planning to do interviews with Tucker Carlson and Piers Morgan, after the Australian exclusive, Auerbach said in the text.

The former television producer made other allegations in his affidavits, including that he put 10,000 Australian dollars ($6,500) on a company credit card for Thai massages for himself and Lehrmann. He said he submitted his resignation the next day, out of guilt, but instead of being reprimanded he received a promotion and a pay raise the following week.

In a statement, the Seven Network said it didn't offer Auerbach a promotion or a higher salary, nor reimburse Lehrmann for "expenditure that has allegedly been used to pay for illegal drugs or prostitutes."

"Seven has acted appropriately at all times," it said.

Before they were aired in court, the claims about money spent on massages made headlines in Australian media, prompting Lehrmann to issue a statement saying the story was "untrue and rather bizarre."

Auerbach countered his denials with threats of defamation action. And during the pursuit of that case, he came into contact with Wilkinson's lawyers.

Cross-examination

In his testimony, Auerbach also alleged that Lehrmann gave the Seven Network evidence from his rape trial, including extensive records of text messages and taped audio calls.

Under an important legal convention, documents provided to a party for the purposes of specific proceedings cannot be used for any other purpose.

Previously Lehrmann's lawyers denied that their client was the source of the material, raising the potential issue of contempt of court.

However, Lehrmann's barrister, Matthew Richardson SC, played down the value of the material, saying most of the information was in the public domain anyway, and it wasn't used for any purpose.

During questioning, Richardson suggested Auerbach was a disgruntled former employee who was angry about losing his job at Seven and his subsequent role with Sky News.

"I want to suggest to you, Mr. Auerbach that you are here today to do as much damage to your former employer and former colleagues, as you possibly can?" Richardson said Thursday.

"Strongly disagree," Auerbach replied.

"And you're prepared to lie in that endeavor," said Richardson.

"No, sir."

To support his line of questioning, Richardson played a three-minute video to the court that showed Auerbach snapping the golf clubs of a former friend and Seven co-worker.

It was posted with the words, "Merry Christmas, sue me," the court heard.

Auerbach conceded he hated his former colleague and held him partly to blame for Seven's refusal to extend his contract.

In his affidavit, Auerbach said he had come across evidence that he believed was relevant to the case and submitted his statement to the trial at the request of Network Ten.

Questions for the media industry

The defamation trial is between Network Ten and Lehrmann, but the evidence heard in the last two days is being scrutinized for what it says about the state of Australia's media industry.

"Here Network Ten is the defendant but this week it's felt like Seven is on trial for its journalistic practices," said Sacha Molitorisz, senior lecturer in law at the Center for Media Transition at the University of Technology Sydney.

Molitorisz, a former journalist, said checkbook journalism has its place, but the allegations aired go far beyond that and show the need for a coherent code of ethics that all Australian journalists follow.

"But you don't need a code of ethics to know that what the Seven journalists did crossed the line," he added.

Margaret Simons, Honorary Principal Fellow at the Center for Advancing Journalism at the University of Melbourne, said reviews of the industry had repeatedly called for more regulation and repercussions for reporters who trample on journalistic ethics.

"The whole saga you know, I think has been devastating for journalism in many ways," Simons said.

"In the era of fake news, if we want people to trust journalism, we need to behave a hell of a lot better than it seems Channel Seven have done."

In its statement, Seven said it was "appalled by the allegations made in recent days. We do not condone the behaviors described in these allegations. They do not reflect the culture of Seven."

During the trial, Justice Lee noted that none of the producers involved in the "Spotlight" program were members of the Media, Entertainment and Arts Alliance (MEAA), Australia's main union for journalists.

The MEAA has a 12-point code of ethics that only applies to members. After a discussion about the code and its interpretation, Justice Lee said, "I don't think reporting honestly is that complicated.... is it? It's a bit like it's not complicated not shoplifting from Woolworths."

Justice Lee retired Friday to consider the evidence, with a date still to be set for his findings.

By Hilary Whiteman, CNN

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