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Michael Bradley  
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**by email:**  
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Dear Mr Bradley,

**Re: Ms Bettina Arndt –ats– Ms Nina Funnell**

I have the honour to represent Ms Arndt, who has asked me to reply to your letter of 7 March 2019.

The first page of your letter appears to be devoted to explaining how high-profile your celebrity client is, or claims to be. If this divertissement serves any purpose, it is presumably to educate people like me, who have the singular misfortune never to have heard of her. Nonetheless, my client is prepared to accept that her reputation is – as you say – "outstanding" (in the literal sense of that term), and that she is held in high esteem by the various coteries and interest-groups which your letter mentions.

Presumably, no such blandishments are needed in the case of Ms Arndt.

Your letter proceeds to take issue with various epithets contained in the identified publications by Ms Arndt, such as "appalling", "misleading", "false", "distorted", "unethical", and "unprofessional". Yet nowhere does your letter address the factual substratum upon which these epithets make comment, even though they are conveniently identified by the line:

*"So here are the facts about her [Ms Funnell's] latest effort."*

The relevant "facts" include a direct quotation from your client, in terms that:

*"absent from the headlines was acknowledgement of the increasing prevalence of sexual assaults on international students". [The Saturday Paper, 02 February 2019]*

It is then observed that the 2017 Australian Human Rights Commission study, upon which your client bases her assertions:

*"In fact, ... provides no evidence for the claim that there is an 'increasing prevalence of sexual assaults on international students.'*

*"This was a one-off survey. It reveals no data regarding changes over time in prevalence of sexual assaults."*

and further:

*“... found that international students were slightly less likely to experience sexual assault than domestic students, both on campus and off campus (p. 51).”*

It may be emphasised that the AHRC study is a public document. Ms Arndt’s publications even provided a hypertext link, so that readers could confirm for themselves whether or not your client’s words were “misleading”, “false”, “distorted”, “unethical”, and “unprofessional”.

This is just the first of the “facts” presented in Ms Arndt’s publications. But your client takes no issue with any of these “facts”; merely with the conclusions which Ms Arndt draws from them. Even then, however, your client does not dispute that the “facts” are capable of supporting such conclusions.

In these circumstances, the purpose of your letter is difficult to fathom. Ms Funnell may not like having it pointed out that (in your words) she “falsifies and misrepresents facts deliberately in pursuit of an ideological agenda”, or that she “deliberately used the term ‘rape’ in a misleading way in her article”. But she does not cavil with the “facts” which are capable of justifying such conclusions; nor does she dispute that they represent fair comment based on the “facts” presented by Ms Arndt.

Accordingly, Ms Arndt does not propose to capitulate to any of your client’s demands.

That said, however, Mr Arndt does not wish to discourage your client from making good on her threat to “commence legal proceedings seeking damages and costs without further notice”. For her part, Ms Arndt cannot conceive of a better way to ventilate the issues about which she is passionate, that at a trial where the focus of the tribunal of fact will be as to your client’s honesty, integrity and professionalism as a journalist.

Finally, I observed that your correspondence is marked, “NOT FOR PUBLICATION”. I am not conscious of any applicable legal constraint on republication, such as a statutory prohibition, an equitable duty of confidence, or a pre-existing contractual duty. Absent such a legal constraint, marking correspondence as “NOT FOR PUBLICATION” is utterly meaningless. When you choose to send an unsolicited letter to any person, you immediately forfeit control over what is done with it.

Accordingly, should Ms Arndt form the view that it is in the public interest to disseminate the fact that she has been threatened with a defamation action by your client – and that this threat had its source in Ms Arndt’s attempts to draw attention to false, misleading and fearmongering features of your client’s published words – she will not be silenced simply because your letter is marked “NOT FOR PUBLICATION”.

Your will observe, I am sure, that this letter contains no such marking.

Yours faithfully,



Anthony J H Morris QC