



## HIGH COURT OF AUSTRALIA

Public Information Officer

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### JOHN FAIRFAX PUBLICATIONS PTY LIMITED v RENE RIVKIN

The High Court of Australia today ordered a retrial in relation to five imputations stockbroker Rene Rivkin claimed could be drawn from articles run in The Australian Financial Review and The Sydney Morning Herald in February 1998.

The two stories and a second Sydney Morning Herald story in March 1998 concerned the mysterious death of model Caroline Byrne, the girlfriend of Mr Rivkin's employee Gordon Wood and Mr Rivkin's business and other activities.

In a New South Wales Supreme Court defamation trial in 2001, the jury rejected all 17 imputations that Mr Rivkin said could be drawn from the three stories. As the jury found none of the pleaded imputations were conveyed it was unnecessary for the jury to determine whether any of them were defamatory of Mr Rivkin.

He appealed to the Court of Appeal which unanimously held that no reasonable jury could find that the first two stories did not contain at least six of the alleged imputations and ordered a general retrial. It also held, by majority, that Justice Carolyn Simpson should have given Mr Rivkin's counsel a right of reply after Fairfax's counsel gave the final address to the jury.

Two imputations concerned Mr Rivkin's conduct in relation to the Offset Alpine Press Group, two were that Mr Rivkin was criminally liable in respect of the murder of Ms Byrne, another was that he had engaged in homosexual intercourse with Mr Wood, and the sixth was that Mr Rivkin associated with criminals.

The High Court, by a 4-1 majority, held that a retrial was required. Three members of the Court held that the trial should consider five potential imputations, one member held that the trial should consider four. The fifth member of the Court would have allowed Fairfax's appeal in its entirety.

The Court unanimously rejected Mr Rivkin's claim of a right of reply, holding there was no error in the ruling of the trial judge, Justice Carolyn Simpson, on the point.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*