

No. 31 of 1985

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL FROM THE SUPREME COURT
OF NEW SOUTH WALES COURT OF APPEAL

IN PROCEEDINGS 102 OF 1983

BETWEEN:

REGINALD AJUSTIN

Appellant (Plaintiff)

AND:

MIRROR NEWSPAPERS LIMITED

Respondent (Defendant)

TRANSCRIPT RECORD OF PROCEEDINGS

PART II

Volume II

SOLICITORS FOR THE APPELLANT

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LONDON. EC3. U.K.

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Documents included in the Record

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<u>VOLUME II</u>				
<u>EXHIBITS</u>				
"A"	Page 36 Daily Mirror (transcript p. 18)	27 April,	1981	312
"C"	Letter from Emmerson & Emmerson to Mirror Newspapers Limited	11 May,	1981	315
"D"	Letter from Vickery Wilson & Parkhill to Emmerson & Emmerson	19 May,	1981	316
"E"	Further Supplementary Verified Statement in Answer to Interrogatories (transcript p. 132)	18 March,	1983	317
1	Article by Dorothy Goodwin in Sun Herald Newspaper (transcript p. 132)	26 April,	1981	320
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DAILY MIRROR

OUR STALE STARS

IT HASN'T been a good year for the big names of rugby league. In fact it has been something of a minor catastrophe the way Parramatta and Manly, along with Balmain, have flopped so badly.

North Sydney's three-try spree to snatch a win over Parramatta and Newtown's steamrollering of Manly emphasises that something is radically wrong with the preparation of major teams with undeniably talented players.

It's easy to blame Ray Ritchie and Jack Gibson or even Frank Stanton, but that would blame only those coaches while perhaps others will suffer the same fate later in the season.

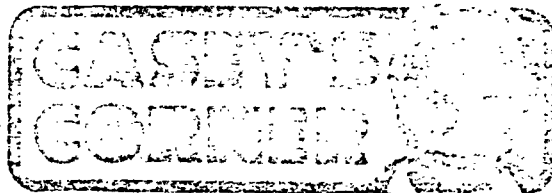
I believe Sydney's top talents are being trained into the ground by over-zealous conditioners who have somehow hoodwinked

Coaches pushing too hard

coaches into believing that on top of a gruelling 60-minute match three nights of tortuous conditioning are also needed.

This means, in effect, Sydney footballers are pressing their bodies to the limit four nights a week.

While that might be acceptable in the boudoir, it is a short cut



to physical staleness on the football field.

I've always believed once a man becomes an international he doesn't need to be guided all the time with his preparation for matches.

Fault

Manly has persisted for the past three years with the physical regimentation of its players by a fitness fanatic named Reg Austin.

From the little I know of Reg he is a magnificent man, and his persecution of his own body has made him the fastest runner

in the world for his advanced age.

But since Austin has taken over the conditioning of Manly the records show it has gone from being a great side to being a tattered band of former champions.

Now this has not altogether been Austin's fault.

A certain lack of concentration and over-confidence on the part of players has contributed as much as some unimaginative coaching from Frank Stanton, Alan Thomson and Ray Ritchie.

I question the wisdom of Austin when he tells an international footballer to do another six 400m sprints as some kind of penance.

League stars train very hard before the season starts.

But once they start playing — sometimes once and twice a week — is there a need for such a grinding training program under these whip-driving coaches?

The problem is Reg Austin and company think they are doing the right thing. My advice is to sack them.

DAILY MIRROR LEAGUE LIFTOUT ... LEAGUE LIFTOUT ...

OUR STALE STARS

CASEY'S CORNER

COACHES PUSHING TOO HARD

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I believe Sydney's top teams are being trained into the ground by over-zealous conditioners who have somehow hoodwinked coaches into believing that on top of a gruelling 80-minute match three nights of tortuous conditioning are also needed. 20

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Exhibits
Exhibit "C" - Letter from Emmerson
& Emmerson to Mirror Newspapers
Limited, 11.5.1981

EMMERSON & EMMERSON

Incorporating Edmund C. Lecky

Solicitors

John N. Emmerson LL.B.
Carolyn Emmerson LL.B.

Telephone 452. 1022
Postal address:
Box 222 P.O. Frenchs Forest 2086
DX 9121 Dee Why

10

11th May 1981.

The Editor,
Daily Mirror,
Mirror Newspapers Limited,
2 Holt Street,
SYDNEY 2000.

Dear Sir,

re Mr. R. Austin

We have been instructed to act for Mr. Reginald Austin in connection with an article published by your newspaper. 20

On the 27th April 1981 there appeared in the Daily Mirror an article in a column entitled "Casey's Corner" which criticized our client in totally inappropriate terms and said that he should be sacked from his work as a conditioner with the Manly Rugby League Club.

It is clear that these words were highly defamatory of our client. We are instructed that they also contained factual errors and gave a totally false impression of our client's capabilities and methods as a conditioner of the Manly Rugby League team. 30

We have advised our client that the article was clearly defamatory of him. We request that you submit to us, within 48 hours, a draft form of apology for our approval to be published in a prominent position in a forthcoming "Casey's Corner" within the very near future.

Our client reserves his rights to take such proceedings as he may be advised.

Yours faithfully,

J.N. EMMERSON

40

JNE.JG.

449 Warringah Road, Frenchs Forest

315.

Exhibits
Exhibit "D" - Letter from Vickery
Wilson & Parkhill to Emmerson &
Emmerson, 19.5.1981

Vickery, Wilson & Parkhill
SOLICITORS
4th floor

115 Pitt Street, Sydney, 2000

R.J.B. Parkhill, LL.B.
I.S. Giddy, LL.B.
R.J. Miller, LL.B

Telephone:
232-3000
(5 lines)

10

DX 308 SYDNEY

Our Ref.: ISG.MH

19th May 1981

Messrs. Emmerson & Emmerson
Solicitors
DX 9121 DEE WHY

Dear Sirs,

re Mr. R. Austin

We act for Mirror Newspapers Limited and we have been
handed your letter to the editor, Daily Mirror of May 11
(reference JNE:JG) with instructions to reply.

20

Rugby league football is a multi million dollar profes-
sional sport with a very large public following and not only
is the performance of the players themselves a legitimate
subject for comment, but so also is that of the coaches, con-
ditioners and others who are responsible for the way in which
the players perform.

The article of which complaint is made is in essence
comment by Mr. Casey on your client's performance as the
conditioner of the Manly rugby league team, and as such is not
actionable.

30

Yours faithfully

VICKERY WILSON & PARKHILL

Per: Ian Giddy

IN THE SUPREME COURT OF NEW SOUTH WALES

SYDNEY REGISTRY The defendant answers the plaintiff's
COMMON LAW DIVISION interrogatories specified in notice serv-
DEFAMATION LIST ed on 7 April 1982 as follows:

Sl2521 of 1981 1A. Did the Defendant publish a news-
 paper known as "Daily Mirror" on 10
 Monday 27 April, 1981?

REGINALD AUSTIN
Plaintiff 1B. Yes.

MIRROR NEWSPAPERS
LIMITED 2A. Did the Defendant publish in the
Defendant said newspaper on the said date
 the words set out in Schedule 1
 of the Further Amended Statement 20
 of Claim, a copy of which Sched-
 ule is annexed hereto?

FURTHER
SUPPLEMENTARY
VERIFIED STATEMENT
IN ANSWER TO
INTERROGATORIES 2B. Yes.

SUPREME COURT
OF NEW SOUTH WALES 3A. Did the Defendant publish the
FILED IN COURT words set out in the said Schedule
NO FEES PAID in: 30
17 MAR 1983
Associate (a) Australian Capital Territory.

 (b) New South Wales.

DAWSON WALDRON 3B. (a) Yes.

Solicitors (b) Yes.

60 Martin Place

SYDNEY 2000

Tel: 2365365

Ref: 20.1048/82

D.X: 355 SYDNEY

4A. If the answer to question 3(a)
 and (b) is in the affirmative, 40
 what was the circulation in each
 State or Territory?

4B. (a) 5252.

 (b) 348192.

5A. Were the words set out in the said Schedule or some of them, and if so, which words, written by an employee of the defendant?

5B. Yes. The words, "Our Stale Stars", "Coaches pushing too hard", and "Fault".

10

6A. If so, who was the employee or employees?

6B. A sub editor wrote the words referred to above.

9A. Prior to the publication of the matter contained in the said Schedule did the Defendant by its servants or agents contact the Plaintiff for his response to the allegations therein or any of them?

9B. No.

10A. If so, who on behalf of the Defendant contacted the Plaintiff and when?

10B. See answer to 9.

20


11A. Did the Defendant, its servants or agents, intend by the publication of the matter complained of to convey the imputations pleaded in the Further Amended Statement of Claim?

11B. (a) As to the first imputation, no.

(b) As to the second imputation, no, although it was intended to convey the imputation that the plaintiff directed physical conditioning and preparation of the Manly Rugby League Team in a wrong or incompetent manner.

30

J. F. McDarra
by his partner



.....
Solicitor for the Defendant

-3-

AFFIDAVIT

ON 16 March 1983 I, WARREN BEEBY of 2 Holt Street, Sydney in
the State of New South Wales, Editorial Manager, say on oath:

1. I am the editorial manager of the Defendant and am
authorised to make this affidavit on its behalf.

10

2. The answers to interrogatories 1 to 11 above are true to
the best of my knowledge and belief based on my own knowledge
and enquiries made by me of officers of the company.

SWORN at Sydney)
)
before me:)

Warren Beeby J.P.



A Justice of the Peace

The time when 'Fatty' Boyd threatened the trainer

320.

It's lucky Manly's sprint coach Reg Austin knows how to duck and weave as well as run because six players threatened to punch him after training recently.

"One of them was Fatty Boyd. He hates training," said Austin, totally unafraid.

"Let's face it, all footballers hate training. And I gave them six 400-metre runs just to round off the session.

"That they wanted to fight me suggested they still had enough breath left for another couple of laps, which shut them up," said Austin, who relished hard work himself.

"You can do in Les Boyd. He's more beau-

tiful when he's angry . . . ha ha."

Like I said, it's lucky Austin can run.

But Les Boyd, Manly's rugged forward, had the right of reply: "At least he calls me 'Fatty' to my face. I guess we all whinge about the hard work. He's putting the pressure on, and we know it's for our own good."

Though Austin is a superannuation and tax plan consultant with a Mercedes, a new bride



LES BOYD

and a house in Killarney Heights ("or Mortgage Hill") he's not often serious.

But he meant it when he said fitness will sort

Despite recent defeats, the Manly Sea Eagles still think they'll be flying high this season. And the man who knows how to "fly" is the team's sprint trainer Reg Austin. At 44 he's a veteran sprint world record holder and on the pro running circuit gives starts to athletes, including some first-grade footballers, half his age. With so little between the teams this year, he believes fitness will be the key to the 1981 premiership.

By DOROTHY GOODWIN

out the men from the boys in this year's premiership.

"You've got to have a good side, and we've got that. So now the onus is on me," he said.

"Boredom is the biggest enemy of training, so you vary it."

Austin rings the changes with 36 different sprint programs.

"Road running is out. Roads are for cars," he said surprisingly.

"So far, we've had only two leg injuries when Russell Gartner put his foot in a hole and tore a hamstring and Max Krilich had a blood clot in the calf.

"Manly is about two-thirds fit at present.

They'll be at their peak in a few weeks.

"Don't believe that players of yesteryear were better than today's. What they do now is incredible."

Austin had the speed of Manly in his hands for the 1978 and 79 seasons. Last year he took a year off to take more interest in his son's football career. Tony Austin, 13kg heavier than his father, plays for Manly under-23s as a second rower.

Austin resumed the job this year, also because he can afford to slacken his own training since successfully defending his world 200m veterans' title in January.

He won two more



REG AUSTIN . . . sprint coach.

gold in the 100m and 400m relays and two silver medals for the 100m and 400m. His age 40-44 world records for these events at 10.8secs, 21.9secs, 48.9sec, still stand.

Though Reg Austin is well known in professional and veteran athletics, he has had a long career in football.

In fact he might have

run for Australia had he not been paid \$4 a match when playing League for Corrimal at the age of 18.

Later, the rangy athlete played fullback for North Sydney in the early sixties.

He trained North Sydney in 1971, 72, 73 and 77. Then Canterbury in 1974, 75 and 76.

Exhibits
Exhibit 1 - Article by Dorothy
Goodwin in Sun Herald Newspaper,
26.4.1981

The time when "Fatty" Boyd threatened the trainer

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TRANSCRIPT OF INTERVIEW AUSTIN/SUTCLIFFE, APRIL/MAY 1981

INTERVIEWER: Reg, Are footballers overtrained.

REG AUSTIN: No, I don't think they are Ken, I don't think they are fit enough.

INTERVIEWER: Do you get to a stage where they're so fit, and they're a lot fitter than what they were three years ago, that they're losing interest in the game?

AUSTIN: Well, to me rugby league is a professional sport 10
and if you play it for money and you lose interest there's always somebody else who wants to take your place. So you can't afford to lose interest if you want the money that's involved in the game.

INTERVIEWER: All right, take it a point - step further. We've got so many star players, so many people who have dominated in Sydney rugby league for years now, all of a sudden we see them sitting on the sideline through injuries at training, form reversals and so forth. Is that a pointer to the fact that 20
they're losing interest in the game or the fact that they get so fit that they're subject to minor tears and strains in their muscles?

AUSTIN: I think its a double edged sword. Yes they are a lot fitter than what they were, but I think some of the older players are finding that age is catching up and they are getting these little minor tears and injuries that they wouldn't have got when they were 20 or 21, and of course the young fellows - the game is so much quicker today 30
that the young fellows are hitting them just a little bit harder than they were before and the injury toll is made up of I think of more speed in the game.

INTERVIEWER: It would seem to be crazy that you've got footballers who are champions at 26 being washed up.

AUSTIN: Well Ken I'm 44 and I still run professionally, but I enjoy it. I think the problem with a lot of fellows is that they are not mentally capable of enjoying the sport after about 24 or 25. They get sick of the sport, they like to be in it

-2-

because of the financial reward and all the cre-
dence that goes with it but I think mentally 10
they're just sick and tired of the sport and
this is why they're ...

INTERVIEWER: So you don't blame training on that.

AUSTIN: I think training has got a lot to do with it like
in the old days you get fellows who played rugby
union until they were 35, 36 because they go
down to training one night a week and run around
the oval three times then go out and play on
Saturday. Now that's great, that's the way foot-
ball should be played, but the rugby league, 20
they've changed all that round, everybody wants
to win now and if you want to win then you've got
to do the things that help you to win and one of
them is being fit, and some blokes are not men-
tally adjusted to going out and training hard
enough, and I don't mean running training, I
mean all sorts of physical training to get them-
selves fit enough to get through a game of foot-
ball and if they're not then they are going to
have to suffer the consequences of sitting on the 30
bench and retiring at 26 or 27.