

NOTICE OF APPEAL

COURT DETAILS

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	

TITLE OF PROCEEDINGS

Appellant	John Hooper
First respondent	Julia Phipps
Second respondent	Willoughby City Council

PROCEEDINGS IN THE COURT BELOW

Title below	Hooper v Phipps
Court below	District Court of New South Wales
Case number below	2019/00096207
Date[s] of hearing	11 and 18 September 2025
Material date	19 September 2025
Decision of	Gibson DCJ

FILING DETAILS

Filed for	John Hooper , appellant
Filed in relation to	Order 1 made by Gibson DCJ on 19 September 2025
Legal representative	Steven Lewis, Mark O'Brien Legal
Legal representative reference	MOBL561
Contact name and telephone	Steven Lewis 02 9292 169829
Contact email	Steven.lewis@markobrinellegal.com.au

HEARING DETAILS

This notice of appeal is listed for directions at

TYPE OF APPEAL

Defamation

DETAILS OF APPEAL

1 This appeal is brought under s 127(1) and (2) of the *District Court Act 1973* (NSW) and s 48(2)(f) of the *Supreme Court Act 1970* (NSW).

- 2 Leave to appeal was granted on
- 3 The appellant appeal from the order of Gibson DCJ that the plaintiff's jury requisition be revoked and that the trial proceed before Gibson DCJ sitting without a jury.

APPEAL GROUNDS

- 1 The primary judge erred by making an order under s 21(1A) of the *Defamation Act* 2005 (NSW) (**the Act**), where no such order was sought.
- 2 The primary judge erred by holding that the appellant's ill health could amount to an "other issue" within the meaning of s 21(1A) of the Act, and by making an order dispensing with a jury on that basis.
- 3 The primary judge erred in making an order under s 21 of the Act dispensing with a jury on the basis of the appellant's ill health, where the respondents had not relied on such a basis, and had eschewed such reliance.
- 4 The primary judge erred in not dismissing the respondents' application to dispense with the jury.

ORDERS SOUGHT

- 1 Appeal allowed.
- 2 Respondents to pay the appellant's costs of the appeal.
- 3 Set aside order 1 of the orders made by Gibson DCJ on 19 September 2025 and in place of such order, order that:
 - a. the defendants' motion to dispense with the jury under s 21 of the Defamation Act 2005 be dismissed;
 - b. there be a new trial, before a judge and jury.
- 4 In the alternative to 3(b) order that there be a new trial before a judge alone.

UCPR 51.22 CERTIFICATE

The right of appeal is not limited by a monetary sum.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 to the [Legal Profession Uniform Law Application Act 2014](#) that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in these proceedings has reasonable prospects of success.

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I have advised the appellant that court fees will be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

Solicitor on record

Date of signature

NOTICE TO RESPONDENT

If your solicitor, barrister or you do not attend the hearing, the court may give judgment or make orders against you in your absence. The judgment may be for the orders sought in the notice of appeal and for the appellant's costs of bringing these proceedings.

Before you can appear before the court, you must file at the court an appearance in the approved form.

HOW TO RESPOND

Please read this notice of appeal very carefully. If you have any trouble understanding it or require assistance on how to respond to the notice of appeal you should get legal advice as soon as possible.

You can get further information about what you need to do to respond to the notice of appeal from:

- A legal practitioner.
- LawAccess NSW on 1300 888 529 or at www.lawaccess.nsw.gov.au.
- The court registry for limited procedural information.

Court forms are available on the UCPR website at www.ucprforms.nsw.gov.au or at any NSW court registry.

REGISTRY ADDRESS

Street address	Supreme Court of New South Wales, Court of Appeal Law Courts Building Queen's Square Level 5, 184 Phillip Street Sydney NSW 2000
Postal address	GPO Box 3 Sydney NSW 2001
Telephone	1300 679 272

PARTY DETAILS

A list of parties must be filed and served with this notice of appeal.
L316450649.1

CERTIFICATION

I **Steven Lewis**, solicitor for the Applicant, certify pursuant to paragraph 27 of Practice Note SC CA 01 - Court of Appeal that the grounds of appeal in the draft Notice of Appeal, are suitable for publication.

SIGNATURE OF LEGAL REPRESENTATIVE

Signature of legal representative:



Date of signature

27 November 2025

[on separate page]

FURTHER DETAILS ABOUT APPELLANT

Legal representative for appellant

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DETAILS ABOUT RESPONDENTS

First Respondent	Julia Phipps
Address	c/- RGSLAW Level 4, 6 Bridge Street Sydney NSW 2000
Second Respondent	Willoughby City Council
	c/- RGSLAW Level 4, 6 Bridge Street Sydney NSW 2000