

I certify that the Applicant's Notice of Appeal is suitable for publication in accordance with para. 27 of Practice Note SC CA 1

Form 105 (version 7)
UCPR 51.16, 51.18, 51.20

Solicitor, Murphy's Lawyers, for the Applicants.
NOTICE OF APPEAL

COURT DETAILS

Court Supreme Court of New South Wales, Court of Appeal
Registry Sydney
Case number 2025/00137701

TITLE OF PROCEEDINGS

First appellant Trent Smith
Second appellant Claudia Smith

First respondent Robert H Jones Investments Pty Ltd v Smith

PROCEEDINGS IN THE COURT BELOW

Title below Robert H Jones Investments Pty Ltd v Trent Smith & Anor
Court below District Court of New South Wales
Case number below 2022/171851
Dates of hearing 8-12, 16-17, 29 April 2024, 15 April 2025
Material date 14 March 2025 (Primary Judgment) and 15 May 2025 (Judgment on Notice of Motion to Vary Costs Order)
Decision of Waugh SC DCJ

FILING DETAILS

Filed for Trent and Claudi Smith, appellants
Filed in relation to Judgment on Quantum and Costs
Legal representative Bryan Wrench, Murphy's Lawyers Inc
Contact name and telephone Rose Cetin, 0414 525 401
Contact email rose@murphyslawyers.com.au

HEARING DETAILS

This notice of appeal is listed for directions at

TYPE OF APPEAL

Damage to Chattels; Tort; Bailment

DETAILS OF APPEAL

- 1 This appeal is brought under 127(1) *District Court Act 1973* (NSW).
- 2 This notice of appeal is filed pursuant to leave to appeal.
- 3 The appellant has filed and served a notice of intention to appeal, which was served on the prospective respondent on 11 April 2025.

- 4 The appellant appeals from the judgment below on quantum and costs (J) and judgment on the refusal to vary the costs order.

APPEAL GROUNDS

- 1 The Trial Judge erred in awarding a sum of money based on the future expenses of Moore Metal: J[237]-[261], [266]-[270].
- 2 The Trial Judge erred in considering costs by reasoning that it was not an appropriate or significant consideration that the Respondent was not successful on quantum.

ORDERS SOUGHT

- 1 Appeal allowed
- 2 Order 1 and 2 of the court below be set aside.
- 3 In lieu of the orders below, order as follows:
- a. Judgment for the Plaintiff in the sum of \$36,132.25.
 - b. No order as to costs pursuant to r 42.35 of the *Uniform Civil Procedure Rules 2005* (NSW).
 - c. In the alternative to Order 3(b), the Plaintiff is to pay the Defendants' costs of the hearing, each party is to pay its own costs of the hearing or the Defendants are to pay 40% of the Plaintiff's costs of the proceedings or such other proportion as the Court sees fit.
- 4 The Respondents pay the Appellant's costs of the appeal, including the application for leave.
- 5 Such other orders as the Court sees fit.

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.

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

Signature	Bryan Wrench
Capacity	Solicitor on Record
Date of signature	13 August 2025

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.

FURTHER DETAILS ABOUT APPELLANT**First appellant**

Name	Trent Jonathan Smith
Address	346 Arnardee Road Tubbul NSW 2594

Second appellant

Name	Claudia Smith
Address	346 Arnardee Road Tubbul NSW 2594

Legal representative for appellants

Name	Bryan Wrench
Practising certificate number	62181
Firm	Murphy's Lawyers
Address	Level 8, 50 Park Street Sydney NSW 2000
Telephone	0414 525 401
Email	bryan@murphyslawyers.com.au
Electronic service address	bryan@murphyslawyers.com.au

DETAILS ABOUT RESPONDENT**First respondent**

Name	Robert H Jones Investments Pty Ltd c/o Koffels Solicitors and Barristers
Address	Level 9, 263 Clarence St Sydney NSW 2000