

I certify that the Grounds of Appeal are suitable for publication in accordance with paragraph 27 of Practice Note SC CA 01

Yiota Angelos, Solicitor
on behalf of Nicholas Angelos & Co, Solicitor for the Applicant

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

FILED

- 6 AUG 2025



NOTICE OF APPEAL

COURT DETAILS	
Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2025/00234844
TITLE OF PROCEEDINGS	
Appellant	Brad Anthony Wheatley
Respondent	Ronald William Peek
PROCEEDINGS IN THE COURT BELOW	
Title below	Peek v Wheatley [2025] NSWSC 554
Court below	Supreme Court of New South Wales
Case number below	2023/00160738
Dates of hearing	28-30 October 2024
Material date	30 May 2025
Decision of	Justice Richmond
FILING DETAILS	
Filed for	Brad Anthony Wheatley, Appellant
Filed in relation to	Whole decision below
Legal representative	Nicholas Panayi Angelos, Nicholas Angelos & Co
Legal representative reference	PCN: 290 NSW
Contact name and telephone	Yiota Angelos Tel: 02 9516 4544
Contact email	mail@angelosco.com.au
HEARING DETAILS	

This notice of appeal is listed for directions at 9am on 27/8/25

TYPE OF APPEAL
Trusts & Succession
DETAILS OF APPEAL

- 1 This appeal is brought under s 101 of the *Supreme Court Act 1970* (NSW).
- 2 This notice of appeal is not 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 19 June 2025.
- 4 The appellant appeals from the whole of the decision below.

APPEAL GROUNDS

- 1 The trial judge erred in finding that the deceased did not intend the entry on his mobile phone, dated 5 August 2022, headed "*Last Will of Colin L Peek*" to form his last will.
- 2 The trial judge erred in not admitting the said document to probate.
- 3 The trial judge erred in allowing extraneous or irrelevant matters to guide or affect his decision making process, particularly:
- (a) The testator had opportunities after creating the subject document to make a formal will but did not take advantage of the opportunities or had opportunities to confirm the existence of the document but did not do so (J 41, J 42).
 - (b) Peter Dawson, a potential beneficiary under the document acted as solicitor for the appellant (J 58) and was a witness and this affected the probative value of the evidence of all the appellants witnesses (J 68, J 70, J 166).
 - (c) The telephone communications involving the deceased on 5 August 2022 (J 78).
 - (d) The absence of phone messages and emails (J 80, J 88, J 89, J 165, J 166).
 - (e) The failure of the appellant to give evidence of a text message from the deceased on 5 August 2022 (J 90, J 160, J 164).

ORDERS SOUGHT

- 1 Appeal allowed.
- 2 The orders of the court below be set aside.
- 3 Probate of the informal will, dated 5 August 2022, and titled "*Last Will of Colin L Peek*" be granted to Brad Anthony Wheatley, the executor named therein.
- 4 The proceedings be referred to the Senior Deputy Registrar in Probate to complete the grant.
- 5 The respondent pay the appellant's costs of the appeal and of the trial.

- 6 To the extent the appellant's costs on the indemnity basis are not satisfied by Order 5 above, the appellant have an indemnity in respect of his costs out of the estate of the deceased.

UCPR 51.22 CERTIFICATE

I certify under UCPR 51.22(2) that the amount in issue in this appeal exceeds the specified amount under Section 101 of the *Supreme Court Act 1970* (NSW).

SIGNATURE OF LEGAL REPRESENTATIVE

This notice of appeal does not require a certificate under clause 4 of Schedule 2 to the Legal Profession Uniform Law Application Act 2014.

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	6 AUGUST 2025

Note:

1. This notice must be served personally unless non-personal service under UCPR 10.18 is permitted.
2. A copy of this notice must be filed in the court below in accordance with UCPR 51.42.

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 APPELANT

Applicant

Name	Brad Anthony Wheatley		
Address			
	96a	Glenhaven	Road
	Glenhaven	NSW	2156

Legal representative for applicant

Name	Nicholas Panayi Angelos		
Practising certificate number	290		
Firm	Nicholas Angelos & Co Solicitors		
Contact solicitor	Yiota Angelos		
Address	Level 1		
	246	King	Street
	Newtown	NSW	2042
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Fax	(02) 9519 5132		
Email	mail@angelosco.com.au		
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DETAILS ABOUT RESPONDENT

Respondent

Name	Ronald William Peek		
	35	Benghazi	Road
	Carlingford	NSW	2118