



R.H Kenna (L.S.)

Principal Registrar &
Chief Executive Officer

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

AMENDED NOTICE OF APPEAL

COURT DETAILS

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2025/373479

TITLE OF PROCEEDINGS

Appellant	ERIN NICOLE BRIGGS
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Respondent	TERENCE HILLIER
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PROCEEDINGS IN THE COURT BELOW

Title below	Erin Nicole Briggs v Terence Hillier
Court below	Supreme Court of New South Wales
Case number below	2020/00356341
Date[s] of hearing	24 June - 19 July, 5 - 6 November, 16 - 17 December 2024
Material date	8 September 2025; 27 November 2025 (costs)
Decision of	Weinstein J

FILING DETAILS

Filed for	Erin Nicole Briggs , appellant
Legal representative	Geoffrey John Potter, Commins Hendriks Pty Ltd
Legal representative reference	GJP:335704
Contact name and telephone	John Potter, 02 6933 6900
Contact email	j.potter@chlaw.com.au

HEARING DETAILS

This notice of appeal is listed for directions at:

TYPE OF APPEAL

Torts – Professional Negligence

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 2 October 2025.
- 4 The appellant appeals from the whole of the decision below.

APPEAL GROUNDS

- 1 The primary judge erred in rejecting the evidence of the appellant and her mother Suzanne Leah about the substance of the advice given by the respondent at the consultation on 3 March 1999.
- 2 The primary judge erred in upholding the defence of the defendant pursuant to s.50 *Civil Liability Act 2002* (NSW).
- 3 The primary judge erred (at J[469] – [480]) in failing to find that the respondent breached his duty of care to the appellant in respect to the advice given including the risks of the surgery given to the appellant pre-operatively.
- 4 The primary judge erred (at J[462] and [478]) in failing to find that the respondent breached his duty of care to the appellant in respect to the advice as to the appellant's return to hockey post-operatively.
- 5 The primary judge erred in failing to find that if the appellant was given the advice which the defendant was required to give pre-operatively, she would not have followed that advice and not embarked on surgery.
- 6 The primary judge erred in rejecting the appellant's account of experiencing low back pain on a regular basis commencing in 2004, with increasing frequency thereafter.
- 7 The primary judge erred in failing to find that, ~~but for~~ the respondent's negligent advice to the appellant was a necessary condition of the harm suffered by the appellant, in that but for the negligent advice the appellant:
 - (A) would not have had surgery;
 - (B) would not have returned to playing hockey until a reasonable time had elapsed, or at all;

(C) would have achieved a better outcome with respect to her lower back pain than she achieved.

- 8 The primary judge erred in his conclusion not to grant an extension of the limitation period.

ORDERS SOUGHT

- 1 Appeal allowed
- 2 Orders 1 and 2 of the court below entered on 8 September 2025 be set aside; and orders 1 and 2 of the court below entered on 27 November 2025 be set aside.
- 3 In lieu thereof:
 - 3.1 Verdict and judgment for the appellant against the respondent in the sum of \$809,040.22 plus interest;
 - 3.2 The respondent to pay the appellant's costs of the proceedings in the court below.
- 4 The respondent is to pay the appellant's costs of these proceedings.

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 that court fees will be payable during these proceedings. These fees may include a hearing allocation fee.

Signature

Capacity

Date of signature


 Solicitor on record
 09/07/2026

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.

[on separate page]

FURTHER DETAILS ABOUT APPELLANT

appellant

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Legal representative for appellant

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DETAILS ABOUT RESPONDENT

respondent

Name Terence Hillier
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