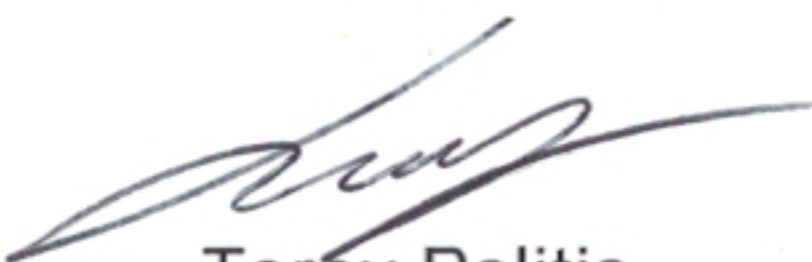


Form 105 (version 7)
UCPR 51.16, 51.18, 51.20


Toréy Politis
Solicitor for the Applicant

DRAFT NOTICE OF APPEAL

COURT DETAILS

Court	Supreme Court of New South Wales, Court of Appeal
Registry	Sydney
Case number	2025/00197791

TITLE OF PROCEEDINGS

Appellant	John Atanaskovic
First respondent	Birketu Pty Ltd (ACN 003 831 392)
Second respondent	WIN Corporation Pty Ltd (ACN 000 737 404)
Third respondent	Anthony Geoffrey Hartnell
Fourth respondent	Jeremy Martin Kriewaldt
Fifth respondent	Michael John Sophocles
Sixth respondent	Jon-Thomas Skene
Seventh respondent	Lawson Andrew Jepps

PROCEEDINGS IN THE COURT BELOW

Title below	John Ljubomir Atanaskovic and the persons named in Schedule A trading as Atanaskovic Hartnell v Birketu Pty Ltd
Court below	Supreme Court of New South Wales
Case number below	2018/00164411
Dates of hearing	28 April 2025
Material date	28 April 2025
Decision of	Hammerschlag CJ in Eq

FILING DETAILS

Filed for	John Atanaskovic, appellant
Filed in relation to	Whole decision below
Legal representative	John Atanaskovic, Atanaskovic Hartnell
Legal representative reference	6167
Contact name and telephone	John Atanaskovic (02) 9777 7000
Contact email	jla@ah.com.au

HEARING DETAILS

This notice of appeal is listed for directions at

TYPE OF APPEAL

[Select type of appeal from the list available on the UCPR website at <http://www.ucprforms.nsw.gov.au/> by clicking on the link to Publications, or at any NSW court registry.]

DETAILS OF APPEAL

- 1 This appeal is brought under s 101 of the *Supreme Court Act 1970* (NSW).
- 2 Leave to appeal was granted on [date].
- 3 The appellant has filed a notice of intention to appeal.
- 4 The appellant appeals from the whole of the decision below.

APPEAL GROUNDS

- 1 The primary judge was under a fundamental misapprehension as to the effect of the orders which he made. The primary judge proceeded on the basis that the stay which he ordered applied to a costs order in the applicant's favour (the assessment of which was the subject of an ongoing review). However, the primary judge in fact ordered a stay of the primary judgment in the applicant's favour.
- 2 The primary judge erred in concluding that the applicant had engaged in "sharp practice" in seeking to enforce the primary judgment in his favour.
- 3 The primary judge erred in ordering a stay over the final judgment in the plaintiffs' favour, in circumstances where:
 - a. the primary judge did not advert to any relevant principles;
 - b. the primary judge did not consider whether the defendants would sustain prejudice of a kind which could not easily be remedied by orders of the Court, if the stay were not made;
 - c. the primary judge did not consider whether the balance of convenience favoured the order;
 - d. the stay was ordered approximately 6 years after delivery of the primary judgment, where the defendants have never sought to appeal that judgment;
 - e. the primary judge had ordered on 24 September 2024 that the previous stay over the primary judgment be lifted and the money held in court be paid out to the parties.

ORDERS SOUGHT

- 1 Appeal allowed.
- 2 Judgment and orders of the court below be set aside.
- 3 The first and second respondents pay the appellant's costs of and incidental to the appeal and the proceedings below.

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 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



Capacity

Solicitor on record

Date of signature

28 July 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.

[on separate page]

FURTHER DETAILS ABOUT APPELLANT[S]

[Do not include this section if you have previously given this information to the court in these appeal proceedings, eg in a summons for leave to appeal.]

[First] appellant

Name John Atanaskovic
 Address 17 Bayview Hill Road, Rose Bay NSW 2029
 [The filing party must give the party's address.]

#Frequent user identifier [include if the appellant is a registered frequent user]

[repeat the above information as required for the second and each additional appellant]

Legal representative for appellant

Name John Atanaskovic
 Practising certificate number 464
 Firm Atanaskovic Hartnell
 Contact solicitor Torey Politis
 Address Level 4, 3 Buckhurst Avenue, Point Piper NSW 2027
 Telephone 02 9777 7000
 Fax
 Email jla@ah.com.au, tsp@ah.com.au
 Electronic service address Not applicable

DETAILS ABOUT RESPONDENTS**First respondent**

Name Birketu Pty Ltd (ACN 003 831 391)
 Address Television Avenue, Wollongong NSW 2500

Second respondent

Name WIN Corporation Pty Ltd (ACN 000 737 404)
 Address Television Avenue, Wollongong NSW 2500

Third Respondent

Name Anthony Geoffrey Hartnell
 Address 9 Lower Serpentine Rd, Greenwich NSW 2065

Fourth Respondent

Name Jeremy Martin Kriewaldt
Address 7 Nelson Road, Linfield NSW 2070

Fifth Respondent

Name Michael John Sophocles
Address Mezzanine, 388 George Street, Sydney
NSW 2000

Sixth Respondent

Name Jon-Thomas Skene
Address 4 Cissbury Ring South, Woodside Park,
London N12 7BE, England, United
Kingdom **and** c/- 4/3 Buckhurst
Avenue, Point Piper NSW 2027

Seventh Respondent

Name Lawson Andrew Jepps
Address 206/59 Oxford Street, Bondi Junction NSW 2022