



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: S155/2025  
File Title: Estate of the late Geoffrey Croft v. MTH & Ors  
Registry: Sydney  
Document filed: Form 27D - First Respondent's submissions  
Filing party: Respondents  
Date filed: 23 Apr 2026

#### Important Information

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**Form 27D—Respondent’s submissions**

Note: See rule 44.03.3.

IN THE HIGH COURT OF AUSTRALIA

SYDNEY REGISTRY

BETWEEN:

**ESTATE OF THE LATE GEOFFREY CROFT**  
**Appellant**  
**and**

**MTH**  
**First Respondent**

**STATE OF NEW SOUTH WALES**  
**Second Respondent**

**SANDRA CROFT**  
**Third Respondent**

**FIRST RESPONDENT SUBMISSIONS**

**Part I: Certification**

1. These Submissions are in a form suitable for publication on the Internet

**Part II: Concise Statement and Response to the Appellant Issues**

Special Considerations or Circumstances

First Respondent is required to Self-Represent as she has been unable to obtain legal representation despite exhaustive attempts and with a common theme being ‘Conflict of Interest’ Not taking on new clients due to workload, a myriad of no response at all, and with a Qld KC willing to represent, however she was unable to find a lawyer.

The other special circumstance on the same basis of limited legal advice relates to reason/s for making the Cross Claim and how this may have been misinterpreted by the Judge/s or not presented correctly by the First Respondent. This application was encouraged by limited legal advice as it was not clear if the facts, evidence and events that were not heard in the Lower Court may be heard within the High Court Process. The First Respondent is seeking the opportunity to have the evidence not heard due to the mistake of the Primary Judge including ‘Connected Abuse’ be heard in the High Court process and is due to a failure of certain obligation from all parties that caused risk and harm. Further details are documented at Part V, Pt 27 and Pt 28

2. In response Appellant Issues in Point 2 – Submission. The First Respondent brought Civil Damages proceedings in the Supreme Court of NSW against three obligated parties, the Second Respondent, the Appellant, and the Third Respondent in April 2020. This was a Foster Parent placement instigated by the Second Respondent. Original Statement of Claim filed in April 2020 (Greg Walsh) and Amended Statement of Claim filed 11 April, 2023 (Carroll O’Dea).
3. In response Appellant Issues in Point 3 – Submission. The Primary Judge appeared ‘skewed’ by unreasonable objections from the other party/s at the commencement of the Primary Hearing. The First Respondent was not prepared for the removal of critical evidence and had relied on the Court Case Management system that formalized processes to ensure filing of submissions, evidence, responses were concise including the allowance of certain evidence into the Civil Case from the Criminal Case (Transcripts). The processes were not challenged by the other parties in the Case Management Direction Hearings. There was close monitoring of the progression under Case Management process for the 2 years between late 2022 and mid 2024 after the Second Respondent had challenged the First Respondents Statement of Claim that was lodged by the First Respondent legal representative Greg Walsh who commenced the Damages Process for the First Respondent in April 2020. There was an objection to the first Statement of Claim not being in a formal or proper format. Refer Case Management Orders 2/9/2022 located in RBOFM Item 7

The Amended Statement of Claim was lodged and it conformed to the insistent demands of the Second Respondent for a concise and formal Amended Statement of Claim to be filed which was filed in the Court under the supervision of the Case Management Judge.

There were two times where the First Respondent has been required to Self-Represent – that being the later part of 2021 through to Mid to Late 2022, and then from May 2024 till now. The second Legal Representative was Carroll O’Dea. The First Respondent was also eligible due to the special arrangements from the Foster Parent placement for consideration under Family Provision, even if there was not a Damages claim for abuse and that is against both the Appellant and the Third Respondent. The Case Management Judge made orders

for the Administrator to provide a copy of the will and financials. The Primary Judge indicated that the First Respondent had good reason to be cautious of the combined Calderbank Offer prepared by the Independent Administrator. The First Respondent submitted a Compromise Offer and there was no response.

4. In response Appellant Issues in Point 4 – Submission. This was not a case of lack of skill by the First Respondent because there had been very concise Case Management of the evidence and administrative needs to prepare for the Hearing. The Hearing commenced on 22 July 2024 and set down for 10 days. There were other factors that appeared to set the tone and mindset of the Primary Judge hearing the matter. It became evident when the Primary Judge did not respect that it was ‘unclear’ to the First Respondent what role the Independent Administrator would have in this process due to them only recently being appointed (March 2024) under Special Appointment instigated by the First Respondent legal representative due to the Third Respondent refusing to execute the Estate of the Appellant. The First Respondent Legal Representative sought guidance from the Case Management Judge to ensure that any Damages awarded would be able to be retrieved from the Estate. The facts of that appointment should have been disclosed to any Judge or Decision Maker to ensure there was clarity of the reason for appointment. The use of a privilege for the Appellant was mentioned by the Primary Judge with no further understanding of how that may affect the First Respondent case. Re: Orders Appoint Independent Administrator located - Refer RBOFM Item 9
5. In response Appellant Issues in Point 5 - Submission. The First Respondent has disclosed in the Primary Hearing, and the Appeal Hearing, the times she has had to Self-Represent and the times she was Legally Represented.
6. In response Appellant Issues in Point 6 – Submission. The First Respondent was of the belief that the ‘accepted’ Statement of Fact that was handed up into the matter by Case Management, and was recorded in the Primary Hearing Court Book was an accepted record of the Conviction Details. Documents were mentioned in Stay Application decision 15/09/2023 Refer to RBOFM – Item 8

7. In response Appellant Issues in Point 7 - Submission. The Primary Hearing was not a fair hearing due to the First Respondent being disconnected to the gathered evidence under Case Management. The Primary Judge would not listen to any objections from the First Respondent even with the Barrister assistance (from referral provided from the Case Management Judge) who provided limited guidance remotely due to being called to another Hearing.

The documents gathered under Case Management were noted in the Court Book for the Primary Hearing and were removed by the Primary Judge without considering consequence of those actions. The Primary Judge also refused to allow the Criminal Transcript despite the First Respondent advising it had been allowed in under Case Management. This was needed to ensure the witness statements remained consistent and with no new evidence or adaptations for the benefit of either the Appellant or the Third Respondent. There was a Certificate of Fact provided by the Investigating Detective and accepted into matter by Case Management and he was called to the Primary Hearing.

8. In response Appellant Issues in Point 7 – Submission. This Appellant questions whether a Certificate of Conviction issued by the Appeal Court to partially correct wrong decision made by a Hearing Judge warrants an award of Damages. And should the Appeal Judges automatically be allowed to award Damages without accepting the corroboration of any evidence. The query should be, is it fair to unfairly tilt the evidence to one side to allow it to be misinterpreted due to deception instead of allowing the relevant access to the correct evidence gathered by way of case management process that had considered the needs of preserving evidence of the witnesses being called.

The removal of this evidence also hid the significant failures of the Second Respondent so the evidence to support the failures claimed was also restricted and they were not found obligated by default, not by considering the evidence presented because it could not be presented when it was removed.

9. In response Appellant Issues in Point 9 – Submission. The third issue circles around the similar issue as in point 8 on whether the Appeal Judges had an obligation to consider the position of the Primary Judge on the constant and unfair target of whether the First Respondent was telling the truth or had memory failure. This was based on hearsay, inconsistencies of witnesses that

he removed any evidence from the First Respondent that was available. The Primary Judge also fell into a trap where the Appellant inappropriately invented mental health conditions that the First Respondent was accused of but does not suffer. The Primary Judge failed to interpret the extensive medical history that supported the validity of the First Respondent in relation to the considerations for Damages. There must be some way to ensure that all the facts and evidence are properly heard and understood without the need for a complete retrial before assuming there is merit in the arguments against any decision of the Appeal Court when the matter still remains a partially heard matter.

The First Respondent establishes again that in light of the comment made by the Appellant in P9 line ¾ “notwithstanding the primary judge’s findings, after considering all the evidence” – the point is he has not heard the relevant critical evidence and instead chose to believe hearsay and witness statements that had been adjusted to suit and not compared to their prior criminal testimony.

10. In response Appellant Issues in Point 10 – Submission. As per Point 9 the evidence items that have not been heard have significant probative value that shows that the Primary Judge would have not been steered in the wrong direction and being convinced that he should take away the critical evidence.

**Part III: Section 78B Notice**

11. The Proceedings do not require notice pursuant to s 78 B of the Judiciary Act, 1903 as they do not involve a matter Arising under the Constitution or involving its interpretation.

**Part IV: Reasons for Judgement**

12. In response Appellant Reasons for Judgement in Point 12 – No Response
13. In response Appellant Reasons for Judgement in Point 13 – No Response
14. In response Appellant Facts in Point 14 – Submission. The Conviction of the Appellant by Jury was in September 2019 and Sentenced in November 2019. Extracted from the Sentence Transcript 2017/00065075 – R v GR. The Appellant was convicted and sentenced on a total 9 counts, being 4 counts against RS and 5 counts against MTH and comprised of the following indictive sentences:
- Count 1 four years imprisonment re RS,  
Count 2 four years imprisonment re RS

Count 3 four years imprisonment re RS  
 Count 4 four years imprisonment re RS  
 Count 5 two years and nine months imprisonment re MTH  
 Count 6 fourteen years imprisonment re MTH  
 Count 7 two years and nine months imprisonment re MTH  
 Count 8 fourteen years imprisonment re MTH  
 Count 9 two years and nine months imprisonment re MTH  
 Total Sixteen (16) years re RS and a total of Thirty-Six (36) years and three (3) months re MTH. With an aggregate sentence of 22 years imprisonment and a non-parole period of Ten (10) years.

- 15.** In response Appellant Facts in Point 15 – Submission. The Damages Claim for the First Respondent was filed in NSW Supreme Court in April 2020 by Legal Representative Greg Walsh. There was a redirection to the Family Court to ‘mediate’ on the request of the Third Respondent that proved a waste of time as there was no compliance to their own matter with refusing to disclose financials and this also provided concern to Greg Walsh that there needed to be extra protection of funds because of the conduct of Appellant and Third Respondent. Greg Walsh sought the assistance of the Supreme Court to instigate a Freezing Order to preserve a figure of \$3,000,000 and he had provided an Affidavit to support that request and verify that the estimate damages was a minimum calculation of Quantum owed to the First Respondent when applying reasonable Heads of Damages relevant to the Claim. The matter became strained when the State would not allow amendments to minimalist Statement of Claim that was first filed to commence the Damages action. Greg Walsh left the matter because it was indicating it will need a larger firm to carry on the case – The Primary Judge granted leave to the First Respondent to seek out a Lawyer Firm who could formalize an Amended Statement of Claim including all Heads of Damages and relevant parties.

Before the First Respondent engaged a new lawyer, she sourced advice from the Minister’s Office relating to certain terms and obligations on the Government Guiding Principles and the First Respondent was advised of a concise and formal State administrative process to have the claim properly reviewed by the State to instigate a fair settlement based on all the facts and if it could not be settled the State were obligated to provide written reasons. This was presented when it could be argued that there was enough evidence to support the claim

against the state of failures to action a prior report of abuse and that put the First Respondent at risk and in fact she was abused. The First Respondent requested them to settle on the basis of the merits of the evidence from the criminal matter.

16. The State did not comply to their obligations under Government Guiding Principles. They stonewalled any attempt to have a proper conversation for settlement based on the significant merit that is blatantly obvious with regards to failures of responsibilities bestowed upon both Foster Parents with special terms and the State failure to investigate a prior report from a victim who was abused before the First Respondent. There was every opportunity to settle on what could be properly determined and there was no cooperation from the State. The First Respondent engaged the services of Carroll O’Dea Lawyers in 2022 who prepared the Amended Statement of Claim and filed and served it as allowed by the Case Management Judge and the matter continued with further preparation of Evidentiary Statements, Tendency Documents and other supporting evidence being adhered to by the scheduling of the Case Management Judge. The First Respondent has self-represented since May, 2024. The First Respondent was granted a judicial referral to approach the Bar Association for Barrister support with the Primary Hearing and the referral was answered by Barrister Bridget Kennedy who could only offer assistance remotely. The Primary Judge still did not listen to any of the requests of the First Respondent even when she attempted to convince him she was being given remote advice from a Barrister who offered her support based on a Judicial Referral by the Case Management Judge.
17. In response Appellant Facts in Point 17 – Submission. There is no comment to this point other than to question what effect it had that caused a miscarriage of justice to have the Independent Administrator who was appointed under special circumstances and who instigated a situation where The Appellant and the Third Respondent were able to pit the other victims against the First Respondent. This was premeditated to cause strain and restriction of being able to present the evidence against all parties in this Damages Claim. The Primary Judge, at the request of Third Respondent insisted that the First Respondent organize the attendance of one or both of the other victims and they would not attend voluntarily because of terms and restriction based on their settlement

arrangements which was already known by the Independent Administrator and Third Respondent. This must be a conflict of interest when the Independent Administrator is acting as if they are claiming continued innocence and yet settled with other victims and then included the restriction to not give evidence to burden the First Respondent. Should this have been allowed by the Primary Judge and how did that affect the outcome of the Hearing?

- 18.** In response Appellant Facts in Point 18 – Submission. The First Respondent presented a Certificate of Fact from the Investigating Police Detective and the Case Management Judge allowed it to be accepted into the matter and also referenced it in a Case Management Hearing and Decisions. It was a Statement of Fact from the Police Detective who conducted the Investigation. He was also called as a witness by the First Respondent for the Primary Hearing, but due to the Criminal information being removed from the Hearing the First Respondent was unable to present all the facts or evidence that related to certain aspects of the investigation relevant to the First Respondent. Here are the details related to the Case Management directive to allow Parties access to the Criminal Transcript held in the District Court file 2017/65075 entitled “R v Geoffrey Croft” via Case Management orders and directions [Common Law General] made on 25 May 2021 for proceeding 2020/00113788-001.
- 19.** In response Appellant Facts in Point 19 – Submission. The Appeal Judges found that the Primary Judge made numerous errors throughout the hearing including his judgement on credit issues. The First Respondent’s evidence was not contradictory evidence in these proceedings compared to the criminal proceedings and the Judge missed significant inconsistencies of evidence presented for the benefit of the other parties as there has been no ability to present the evidence and therefore the primary arguments remain unheard and this includes items related to what the Police investigation had discovered which was totally independent of all parties and would alleviate any speculation regarding the TAFE scenario and other events.
- This also includes the fact that the Criminal Judge gave little consideration that there could be contradiction or inconsistencies with any witnesses called for the other side that had attended the criminal hearing because the First Respondent had indicated from the onset that the abuse took place in private, in the same

location and with premediated psychological trauma by way of creating punishment scenarios and stress of wondering when will the punishment would occur and that led to sexual abuse that he pre-planned when no-one was around. The First Respondent situation was that she had grown up as an only child with loving foster parents who wanted to adopt her. She had been sent to a remote property with strangers who abused her (and where prior abuse had occurred and a victim reported to a State Welfare Officer who he named) and then the abusive Foster Parents had her removed by the State to an even more remote place due to the First Respondent trying to speak to the Third Respondent about abuse and then she was not heard when trying to report it to a Welfare Worker from the State and with this many strangers around that the First Respondent could not trust and who did not take action to investigate the abuse, she had to find a way to cope with so many confusing and demoralizing feelings which she should never should have had to endure, it was completely preventable.

The State should have actioned the Adoption or done more to ensure there was a way back to a proper connection with her loving foster parents. The Appeal gave some consideration to the issue of Adoption, however were convinced by the State that they were not obliged to permit an adoption even though it clearly stated in the Documents that it 'was in the best interest of the child'. There had already been 4 years of searches for Birth Mother between 1971 and 1975 when the Adoption was approved originally and not actioned and the First Respondent had given her wholehearted consent at the age of almost 13 years. The concern is that it is recognised that there needs to be psychological support to consider this decision and yet the State do not recognise the harm caused if you suggest the idea and a child consents and then you do nothing to reverse that desire if the State decides in their 'special powers' to change their mind and should have recognised that harm and then to remove a child from a long term home without psychological support and close monitoring does significant and permanent psychological damage also. If this was the scenario in the current day a child is given far more psychological understanding and decision-making power to give consent with regards to the Adoption at the age of 12 years and when placed for an extensive amount of time with the one family. They are also required to be given access to counselling when making this sort of decision. It is recognized as a very important consideration for the welfare of a child as documented in the NSW Adoption Regulation 2015 and Adoption Act 2000.

The State should have taken action to investigate the safety of the Foster Parents that the First Respondent was forced to stay with as an alternative to being adopted by her loving long term Foster Parents. The relationship that was so bonded with her long-term Foster Family who gave the First Respondent an identity was never the same again as a result of interference by the Third Respondent and what was in contrast to what she was supposed to do which was to provide access of the First Respondent to her long-term foster parents. That interference breached her obligations and this was extremely detrimental. There is also a significant issue about the conduct of the Third Respondent with regards to TAFE. This point requires clarification in order to ever consider the evidence has been properly heard, and is related to items of the Police Investigation. Refer Adoption Records located RBOFM Item 28

20. In response Appellant Facts in Point 20 – Submission. The First Respondent identifies in previous information that there is no basis to continue to highlight the careful layout of the decision by the Primary Judge because he had not considered that there was a significant obligation to allow the criminal evidence into the matter that has very strong and probative value and so far those facts and events have not been considered, it was considered relevant under Case Management and the Primary Judge chose to ignore any of the processes from the two years of Case Management. Once the missing evidence is considered it will show without a doubt that the Primary Judge went completely off track with his interpretation of the evidence.
21. In response Appellant Facts in Point 21 – Submission. Not disputed but was brought about by the original interference to the restriction of evidence related to the First Respondent Damages Claim against all parties.
22. In response Appellant Facts in Point 22 – Submission. Not disputed but all the parties complied to the process requested by the Appeal Judges to provide answers to five questions to prepare for the start of the Appeal Hearing.
23. In response Appellant Facts in Point 23 – Submission. The First Respondent continues to argue that the Primary Judge failed to allow the First Respondent to present the evidence from the criminal trial that not only supports the Damages case it settles any misconceptions on the TAFE issue or any beliefs or disbeliefs around the financial issues and payment of allowances.

24. In response Appellant Facts in Point 24 – Submission. There is no Point 24
25. In response Appellant Facts in Point 25 – Submission. The Appeal Judges have given reason why they did not agree with the assessment on Damages made by the Primary Judge and it relates to them recognizing that he was led to believe the original Statement of Claim prior the filing of the Amended Statement of Claim and they also recognized that the original Statement of Claim aligns with more of a minimalist submission similar to Redress.
26. In response Appellant Facts in Point 26. The Appeal Judges considered the Damages they awarded by gathering various items of quantum from the Appellant and the other Respondents and the Appellant was given every chance to have an ‘opinion’ which is distressing given that it is like giving the ‘Convicted’ the chance to set a ‘minimum’ buffer on certain Heads of Damages after being found guilty by jury and sentenced to 22 years with a non-parole of 10 years and only served two years. The Appeal Judges considered all input from the parties and they were ‘measured’ in the Assessment but consistent with the allowance with most of the relevant ‘Heads of Damages. Refer to Position Paper/Quantum provided to Appeal Judges on their request – RBOFM Item 40

**Part V: Argument**

27. In response Appellant Facts in Point 28 to 36 – Submission. This first argument titled Ground 1: Duty to Unrepresented Litigant is based on blaming the Self Representative for not being able to present the case. The Self Represented or any Legal Representative (proven by having Barrister advice and when making those requests to the Primary Judge he refused every request) was not able to present the case that had been prepared by way of the two years of Case Management that had been set with the purpose of managing the collection of evidence, submissions, processes and requirements that was allocated to all parties to prepare. It was based on what was identified as necessary by the information presented in the Amended Statement of Claim and because it was very obvious based on the requirement of the parties needing to attempt some agreement of alterations to the original Statement of Claim.
- The State would not accept the minimalist original Statement of Claim (even though they are obliged to consider settling cases with no Statement of Claim) and would not agree to any alterations being requested to the original Statement

of Claim that had been originally filed to commence the Damages action in the NSW Supreme Court in April 2020. The processes and direction hearings were measured and relevant to progressing the Damages Claim in the court to ensure that there were preparations made to hear the matter based on the prepared Amended Statement of Claim, Evidentiary Statements, other relevant materials that were presented with full disclosure. The materials such as private records of the State Ward are not there to be manipulated or adapted to twist the facts for the benefit of any party but in particular not for the benefit of the Appellant and Third Respondent.

This was recognized by the Case Management Judge that there was the potential for that to occur if the Appellant or Third Respondent were to call witnesses that had already given evidence in the Criminal Trial. The question in the High Court should not be whether the Judge should have identified that the First Respondent needed to present a different Certification of Conviction. The question is and should have always been was the Primary Judge wrong for removing all of the evidence presented to ensure a proper and methodical and duly sensitive Hearing as prepared to that point. This was mapped out by a myriad of Directions and other Hearings under Case Management therefore not considering these processes created an uncertainty of what was allowed to be presented in the Primary Hearing.

The Appeal Judges recognized this however they did not consider that there is substantial evidence from the criminal process that does warrant consideration against both the State and the Third Respondent because they did not consider the evidence that had not been heard by not understanding the relevance of the Criminal Transcript. The evidence collected in the criminal process impacted on how the First Respondent was going to run the case with regards to the witnesses called for both sides. The Case Management Judge granted permission to the First Respondent for the witnesses called and based on Directions Hearing identifying their purpose for the Primary Hearing.

The other questions that should be considered first is should the Appellant have created any unfair burden by settling matters with other related victims and then presenting themselves as if they were the 'Convicted' continuing to assume

innocence, and then acting as collaboration due to a Beneficiary (Third Respondents) demands convincing the Primary Judge that at least one of the other victims needed to be called, putting immense stress on the First Respondent to try and achieve an attendance of the victim to be questioned when it had already been set up between May and July at the time of the Hearing that certain terms were placed on the offers made to the victims by the Independent Administrator who got to act in a role of being the ‘Innocent’ Convicted Abuser and had controlled in a premediated fashion to ensure the victims would not give evidence voluntarily.

#### **Part VI: Cross Claim and Connected Abuse**

28. In regards to the opportunity for addressing items that related to ‘Connected Abuse’ and as raised in the Cross Claim and what was being requested by the First Respondent was to be presented with the full understanding that it was unclear if there was the opportunity to ensure that all evidence and events is considered because they are all ‘connected’ and affect the interpretation of evidence and the extent of the ‘Damages’.

As part of the limited legal advice available to the First Respondent there was a brief review of the documents presented for the High Court conducted by a Legal process similar to volunteer Woman’s Legal Centre who can offer some immediate and general advice. As there was no ability to ascertain whether there was an understanding or scope to include the items raised in the Cross Claim as part of this Hearing would they be addressed, it was advised to ensure that the Matter is given the opportunity to be heard on the restricted evidence. This was not asking for a separate Hearing but rather an understanding and consideration request to the High Court that the primary evidence and events as well as connected events and evidence that are recognized under ‘Connected Abuse’ that have not been included or heard, should be included and heard or the Damages Claim and the role of each party will always remain not properly heard, the events and evidence not properly assessed according to legislation. The extenuating circumstances of the ‘connected’ nature of the abuse due to the responsibilities to monitor certain things and the lack of monitoring has placed significant psychological burdens on the First Respondent

That is why there was more than one occasion where the Primary Judge was asked to allow the criminal transcript into the matter that had already been shared to all parties in 2021 by the Case Management Judge. Another question remains what changed the pathway of the Case Management Judge (Justice Garling) being the Judge that intended to hear the Matter at the Primary Hearing (as per the Case Management Directions) at the last minute and who or what instigated that decision. If a new Judge was to hear the matter (which occurred) then it was even more imperative for that Primary Judge to follow the Case Management process. This was in place as part of the commitment to not add unnecessary burden to childhood victims with cases presented that related to State childhood abuse matters. What makes this even more distressing is that nobody can recognize that this is being driven by the same psychologically abusive Foster Parent, being the Third Respondent, because of the control she has over the estate but in the background now due to the need to have appointed an Independent Administrator and is part of her very dangerous and manipulative conduct that flies under the radar and is why psychological connected abuse must become recognized when it is being inflicted upon someone like the First Respondent with both historical and current connections. This is also what the State had the obligation to assess when the First Respondent requested a review of all the history discovered in the Criminal Process (as identified as part of the State obligations for settling cases without pushing them to a Civil Hearing if there is evidence that should be considered that it is best to settle the matter). The integrity and motive of the legal representatives who are running this case must be brought to question when it is allowed to go unnoticed when legal representatives are allowed to pit victims against each other as a tactic to restrict criminal evidence. And that the State allows for that to happen so they are shielded for being accountable yet sit 'neutral' in a matter and then awarded indemnity costs from a scenario that created significant Judicial errors. It also needs to be recognized that making another victim take to the stand or adjust their Witness Statement to adapt their circumstance to protect a prior Foster Parent must be also approached with 'caution' due to the fact that the Third Respondent has maintained a 'psychological control' with the witness due to their 'connection' and that same

witness gave evidence in the Criminal Hearing which has now been 'adapted' to protect the Third Respondent and is implemented by the 'Independent' Administrator.

To attempt to bring witnesses in to say they drove the First Respondent places who then declined to present themselves at the Hearing was 'missed' by the Primary Judge as something he should have shown more attention too. When a witness feels the need to then adjust what they said in their statement and the Primary Judge does not connect the dots, that is also a concern. The Primary Judge then believing another witness that was called who was not seen to be able to provide any probative value to the criminal case was presented at the Primary Hearing and he was believed by the Primary Judge even though the Self Represented Victim was able to identify the flaws in his story because he was not present at the time the First Respondent was there. He stated he could see the First Respondent coming and going from a property that was some 6 to 8 kilometres off the main road. The First Respondent did not get a license that allowed her to drive herself until September, 1979 and she was removed from the Appellant and Third Respondent in approx. November 1979. He indicated he was visiting often when this simply did not happen at that time. It occurred when the Third Respondent had two children and that did not occur until after 1980. He was adapting the timeline for the benefit of the Independent Administrator and the Third Respondent to attempt to create doubt or discredit. When identifying where he has lived for the past 60 odd years his property has no possible way of ever seeing the First Respondent coming and going whether she was or not. This was all attempts to create other people around and what the Primary Judge failed to understand was that in the criminal process the criminal Judge gave no probative value to any of the witnesses in the First Respondent case that were called for the Defense because nobody witnessed or was present at the times the First Respondent was abused. What was relevant however was what the Police discovered by their enquiries for the Investigation and that should be heard before determining whether the Primary Judge's decision should stand and whether there should be any removal or addition to the current Appeal Decision to include the other parties to acknowledge how they failed to keep the First Respondent safe. There should be a consideration

of the High Court to allow the First Respondent to present the evidence that was 'missed' in the Primary Hearing.

The First Respondent requests to be allowed to present this evidence orally. The First Respondent has included the necessary documents that are either in the Core Appeal Book or the First Respondent Book of Further Materials. It is worth noting that the only information relating to the Criminal matter left in the Primary Hearing was the First Respondent Police Statements. However the way the Primary Judge ran the case was that he expected the First Respondent to endure an unreasonable interrogation of the medical evidence and that was the first port of call for the Primary Hearing Day 1 – so not only was the First Respondent forced to take the stand on the first day, she was examined without proper cause or understanding of her medical reports and evidence for four days on every aspect of her life and yet this was allowed without allowing the First Respondent to not present any of the evidence she had prepared.

The Primary Judge raised the issue of a possible 'Abuse of Power'. Instead of seeking advice independently he chose to make the State provide a report on whether there was an Abuse of Process or not? The State were allowed to continue to call themselves a 'neutral' party but they were not a 'neutral' party. They had obligations and failures to answer too and the First Respondent was denied that opportunity and one can only assume the Primary Judge has had influences that caused the Primary Hearing to not be fairly heard. 'Abuse of Process' Report was prepared by the State at request of the Primary Judge - Refer CAB Black Book Index Doc 6 2 805-828

The First Respondent reiterates that there should have been some confidence provided to the First Respondent in ensuring that the Primary Hearing respected the processes that occurred under Case Management and that includes that it cannot be assumed a reliable determination that a Primary Hearing was made when the only criminal evidence he considered on the side of the First Respondent was the evidence of the First Respondent Police Statements. It must also be understood that the Third Respondent called a witness that gave evidence in the Criminal matter and that is one of the reasons that the Primary Judge was obliged to allow the Criminal Transcript when it was recognized as a need under Case Management processes.

29. In response Appellant Facts in Points 37 to 56 – Submission under the heading of Ground 2: Section 178 Evidence Act 1995 (NSW) Certificate. In the Court of Appeal, the Primary Judge made numerous errors concluding that pursuant to s 92 (2) of the EA a certificate of conviction pursuant to s 178 of the EA was admissible and in the absence of evidence to the contrary, would prove the elements of the offences at a prima facie level. It was not contradictory evidence in these proceedings compared to the criminal proceedings and that has only been quoted – There has never been anything presented that actually states what is conflicting but rather just using the broad statement without including specific examples with evidence that any of the examples have any probative value to the fact that the First Respondent came forward first and gave her evidence and sequence of events to the Police. Then, over the course of a couple of years, as part of the police process, there were things that the Police were able to determine that gave significant probative value to confirm the facts of the First Respondent reporting on not only the criminal circumstance but to validate the lack of care taken by the State. This is a miscarriage of justice.

In response to Pt 38 in the Appellant submission the Appellant has left out relevant information from s 178 sub-s (2) (a). Also states a certificate of fact is able to contain particulars of the sentence, conviction or proceeding in question. In response to Pt 39 in the Appellant submission. A Certificate given under s 178 sub-s (3) is also evidence of the particular offence or matter if state in the certificate. A certificate given under s 178 sub-s (4) is also evidence of the particular matter and occasion of the proceeding if stated in the certificate.

In response to Pt 40 in the Appellant submission. The First Respondent had no need to raise the issue in relation to a Certificate pursuant to s 178 of the EA. This was the obligation of the Primary Judge because he removed the Certificate of Fact as a result of removing all the criminal evidence on the basis of the opposing party objections. There was already a Statement of Fact that was removed and there was no reason for me to request a Certificate of Conviction. The First Respondent believes that the Appeal Judges has indicated they would restore what the Primary Judge should not have removed with the Certificate of Conviction because a Certificate of Fact was allowed by the Case Management Judge and the Primary Judge removed this in error. It would be expected under

normal circumstances that a certain courtesy would be given to what has been allowed as part of Judicial Case Management in a sensitive childhood abuse matter whilst a State Ward.

In response to Pts 40 to 56 in the Appellant submission. It was the Primary Judge's obligation to identify what would replace the accepted Certificate of Fact and how that would affect the First Respondent in presenting her case when the gathering of certain information under Case Management was for the purpose of the Hearing.

Proof of Conviction: Under the *Evidence Act 1995* (NSW), a certificate of conviction is evidence that the person was convicted. However, it is generally considered evidence that the person was *found guilty* by a court, is highly

Rebutting the Conviction: Other parties (defendants) cannot simply "remove" the certificate.

30. In response to Pts 57 to 65 in the Appellant submission under the heading:

Ground 3: Section 75a Supreme Court Act 1970 (NSW) – Reassessment of Damages the following points are made

The Primary Judge addressed the issues as to credit. He relied on Hearsay from the opposing parties and the Third Respondent which was unreliable at best. The Primary Judge was focussed on the Original Statement of Claim and not the Amended one and he did not consider the medical evidence of the First Respondent or consider the fact of why the Amended Statement of Claim was required. If the First Respondent had been granted access to the Criminal Transcript this would have proven that there was inconsistent evidence by the opposing party/s and was glaringly improbable when weighed up against what the Police had accepted in regards to their discovery from their investigative enquiries. The witnesses called for the opposing party/s could provide no probative value to the criminal matter or civil matter in regards to the First Respondent and in fact one witness had altered their statement to the evidence given in the criminal trial and this person is 'vulnerable' to the control of the Third Respondent. There was no other way for that Witness Statement to reflect the changes it did except for the Third Respondent using access to the First Respondent File records to adapt certain information and timelines in the situation because the only benefit that it gave in the Civil Hearing to alter the

evidence slightly was to attempt to say that witnesses spent time with the First Respondent and that it is not true.

- 31. Legal Costs** - In relation to the Costs and who is responsible, the First Respondent was sent an email from Third Respondent and is related to their assumption that the First Respondent has an obligation to comply to Costs from the Primary and Appeal Hearing prior to this Matter being finalised. The First Respondent has provided a copy of the letter sent from Third Respondent for the purpose of raising the issue that the First Respondent had won costs against the Third Respondent Stay Application which was itemised in Carroll O’Dea invoice for \$77,000 plus GST. It is worth mentioning that under Case Management the Judge requested for The First Respondent to be provided a Copy of Will and the Financials. There are two things to note with regards to items in the Will, Third Respondent remains the Wife of the Appellant and Third Respondent is to be paid all of her legal costs from the Estate. As per Orders sought the First Respondent has requested consideration regarding the Costs and added stress because it was unclear if there will be full consideration of what is left partially heard and also to be relieved of any of Costs if the High Court upholds, increases or varies an award in the First Respondent’s favour.
- 32. Appellant Chronology** – The First Respondent challenges or disputes at least 80% of the Items in the Appellant Chronology and the First Respondent will need to be given the chance to present the evidence that was removed/restricted from the Primary Hearing by the Judge by choosing to side with objections of legal representatives whilst ignoring the First Respondent. The Criminal Transcript was allowed into the civil matter under Case Management as far back as 2021 for a minimum of two purposes, 1. Witnesses for the Appellant in the Civil Hearing or for the Third Respondent who gave evidence in the Criminal Trial and 2. The First Respondent is aware of certain information found by the Police as part of their enquiries/investigation. Due to removal and deliberate restriction to the evidence that the First Respondent relied upon the Primary Judge has not heard the matter properly when critical information has not been presented. Criminal Transcripts - Refer RBOFM Items 14-26

**Part VII: Orders Sought**

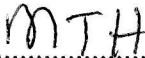
**33.** It is submitted that the following orders should be made when all considered:

- (a) Dismiss the Appeal by the Appellant
- (b) Hear the unheard items related to the restricted criminal evidence.
- (c) Determine if the decision the Appeal Judges made regarding the claim against the State on the item of refusal to Adopt was a significant failure.
- (d) Determine that the State's failure to act on a prior reporting by a victim of abuse by the Appellant and Third Respondent and the State inaction caused significant harm to the First Respondent. Determine the State had a heightened obligation to properly monitor the placement.
- (e) Determine that the failure by both the Appellant and Third Respondent to ensure that the First Respondent was in attendance at TAFE and was given every opportunity to complete the course was a failure that put the First Respondent at significant harm
- (f) Determine that the failure by both the Appellant and Third Respondent to allow verbal access and visitation to her long-term Foster Parents as part of the Foster Parent arrangement caused her significant harm
- (g) Increase the award of damages to include a calculation of quantum on all Heads of Damages that the High Court see appropriate State of NSW.
- (h) Increase the award of damages to include general damages against the Third Respondent for the failures of Care that caused significant harm to the First Respondent
- (i) Costs to be distributed in a way the High Court sees appropriate
- (j) Remove any burden of Costs from the First Respondent

**Part VIII: Estimate for Hearing**

**34.** The First Respondent estimates 2 hours to present oral argument and evidence.

Dated 22 April, 2026

  
 .....  
 First Respondent Self-represented

## ANNEXURE TO RESPONDENT'S SUBMISSIONS

No	Description	Version	Provision(s)	Reason for providing this version	Applicable date or dates (to what event(s), if any, does this version apply)
1	<b>Evidence Act 1995 (NSW)</b>	<i>Version 25 (25 Dec 2022 to current)</i>	<b>Section 92 (2)</b>	<i>Act in force on the day of judgment in Supreme Court of NSW and the Court of Appeal of the Supreme Court of NSW</i>	<i>28 November, 2024 date of Judgement in Supreme Court of NSW and 6 June, 2025 in the Court of Appeal in the Supreme Court of NSW</i>
2	<b>Evidence Act 1995 (NSW)</b>	<i>Version 25 (25 Dec 2022 to current)</i>	<b>Section 178 Sub s 2a Sub s 3a Sub s 4</b>	<i>Act in force on the day of judgment in Supreme Court of NSW and the Court of Appeal of the Supreme Court of NSW</i>	<i>28 November, 2024 date of Judgement in Supreme Court of NSW and 6 June, 2025 in the Court of Appeal in the Supreme Court of NSW</i>
3	<b>Supreme Court Act 1970 (NSW)</b>	<i>Version 52 (25 Dec 2022 to current)</i>	<b>Section 75a</b>	<i>Act in force on the day of judgment in Supreme Court of NSW and the Court of Appeal of the Supreme Court of NSW</i>	<i>28 November, 2024 date of Judgement in Supreme Court of NSW and 6 June, 2025 in the Court of Appeal in the Supreme Court of NSW</i>
4	<b>Limitation Act 1969 (NSW)</b>	<i>Version 31 (16 July 2022 to current)</i>	<b>Section 6A</b>	<i>Act in force on the day of judgment in Supreme Court of NSW and the Court of Appeal of the Supreme Court of NSW</i>	<i>28 November, 2024 date of Judgement in Supreme Court of NSW and 6 June, 2025 in the Court of Appeal in the Supreme Court of NSW</i>

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<b>5</b>	<b>NSW Adoption Regulation 2015</b>	<i>Version 49 of 215 (16 Dec 2022 to current)</i>		<i>Regulation in force on the day of judgment in Supreme Court of NSW and the Court of Appeal of the Supreme Court of NSW</i>	<i>28 November, 2024 date of Judgement in Supreme Court of NSW and 6 June, 2025 in the Court of Appeal in the Supreme Court of NSW</i>
<b>6</b>	<b>NSW Adoption Act 2000</b>	<i>Version 75 of 215 (30 Oct 2023 to current)</i>	<b>Section 55 Consent of a Child</b>	<i>Regulation in force on the day of judgment in Supreme Court of NSW and the Court of Appeal of the Supreme Court of NSW</i>	<i>28 November, 2024 date of Judgement in Supreme Court of NSW and 6 June, 2025 in the Court of Appeal in the Supreme Court of NSW</i>

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