

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged:	Originating Application Under the Australian Human Rights Commission Act 1986 - Form 116 - Rule 34.163(1)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	22/12/2022 12:03:51 PM AEDT
Date Accepted for Filing:	22/12/2022 2:31:40 PM AEDT
File Number:	NSD1148/2022
File Title:	ROXANNE TICKLE v GIGGLE FOR GIRLS PTY LTD ACN 632 152 017 & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



*Sia Lagos*

Registrar

### Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



**Originating application under the Australian Human Rights  
Commission Act 1986**

No.                      of 20

Federal Court of Australia  
District Registry: New South Wales  
Division: Human Rights Division

**ROXANNE TICKLE**

Applicant

**GIGGLE FOR GIRLS PTY LTD ACN 632 152 017** and another named in the schedule  
Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:** [Registry will insert time and date]

**Place:** [address of Court]

Date:

Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party) Ms Roxanne Tickle  
Prepared by (name of person/lawyer) Ms Corrina Dowling  
Law firm (if applicable) Barry.Nilsson Lawyers  
Tel (03) 9909 6300 Fax \_\_\_\_\_  
Email Corrina.Dowling@bnlaw.com.au  
**Address for service** 6/600 Bourke Street, Melbourne, VICTORIA, 3000  
(include state and postcode)



## Details of claim under the Australian Human Rights Commission Act 1986

The Applicant claims that:

1. The Applicant is a woman residing in New South Wales. The Registry of Births, Deaths and Marriages in Queensland (the Applicant's state of birth) has issued the Applicant with an updated birth certificate which designates her gender as female, following her transition from male to female.
2. In or around February 2021, the Applicant downloaded a digital application ('app') to her mobile device known as 'Giggle', which is marketed as a platform exclusively for women to share experiences and speak freely in a 'safe space'.
3. Giggle is wholly owned by the first named respondent, Giggle for Girls Pty Ltd (the **First Respondent**). The CEO of the First Respondent is Ms Sally ('Sall') Grover (the **Second Respondent**).
4. To access to the app, users are required to provide information including a self-taken photograph of their face (a 'selfie') and upload it to the platform. It is clearly stated that a person must be a woman in order to gain access to the platform.
5. Once uploaded, the 'selfie' is assessed by third-party artificial intelligence (**AI**) software that determines whether the aspiring user is a man or a woman. If the AI accepts the 'selfie' as that of a woman, the user is provided full access to the platform.
6. The Applicant undertook this process upon downloading the app. The AI determined that the Applicant was a woman, and she was provided with full access to the app's functions.
7. Between February 2021 and September 2021, the Applicant enjoyed full access to the app's features and used the app to read content posted by other users.
8. In late September 2021, the Applicant logged into the app and found that she could no longer post content, read or comment on posts made by other users on the platform. When the Applicant attempted to purchase the 'Premium' features available on the app, she received a 'User Blocked' message.
9. In late September 2021, the Applicant attempted to contact the First Respondent via an in-app contact form to raise the issue. She received no response from either the First Respondent or Second Respondent.
10. In October 2021, the Applicant sent a total of six emails to the First Respondent regarding her restricted access to the app. The Second Respondent, Ms Grover, replied to one of the Applicant's emails and requested that the Applicant provide her with her phone number. The Applicant did so but did not receive any phone call from Ms Grover.



11. In late October 2021, the Applicant attempted to contact the phone number listed in the Second Respondent's email signature via SMS and two phone calls. She received no response.
12. On 5 December 2021, the Applicant made a complaint to the Australian Human Rights Commission (**AHRC**) under section 22 of the *Sex Discrimination Act 1984* (Cth) (**SDA**), naming both the First Respondent and the Second Respondent. It was the Applicant's assertion that in being granted limited functionality to the app, she was being discriminated against on the basis of her gender identity. The Applicant wrote:  
  
*I believe that I am being discriminated against by being provided with extremely limited functionality of a smart phone app by the app provider compared to that of other users because I am a transgender woman. The app provider appears to not recognise transgender women as female. I am legally permitted to identify as female.*
13. On 20 January 2022, the AHRC sent a copy of the complaint to the Respondents.
14. On 3 March 2022, the Feminist Legal Centre (**FLC**) sent a reply to the AHRC on behalf of the Respondents.
15. The Respondents asserted that:
  - a. The Applicant was considered male based on a visual inspection of the selfie provided and was removed from the app on that basis. Further, the Applicant's gender identity was not known to the Second Respondent or other Giggle personnel at the time of removal and did not inform the decision to preclude the Applicant from the app.
  - b. Giggle constitutes a special measure aimed to achieve substantive equality between men and women and its exclusion of males is reasonable in the circumstances; as such, the exclusion of males by Giggle falls within the exceptions provided pursuant to sections 7N, 7D and 32 of the SDA.
16. On 21 March 2022, the Second Respondent tweeted from the twitter account @salttweets, '[i]n January 2022, I received an Australian Human Rights Commission complaint against both Giggle and me personally, from a **trans-identified male** who wants to use a social networking app for females & for me to be re-educated on sex and gender.' [emphasis added]
17. On 1 April 2022, the AHRC advised the Applicant that the Respondents had declined to participate in conciliation.
18. On 5 April 2022, a delegate of the President of the AHRC provided the Applicant with notice that they were terminating the complaint pursuant to section 46PH(1B)(b) of the *Australian Human Rights Commission Act 1986* (Cth) (**AHRCA**), on the grounds that they were satisfied there was no reasonable prospect of the matter being settled by conciliation.



19. On 1 April 2022, *The Australian* newspaper published an article entitled *Echoes of Orwell: in threat of women's rights and safety* by Angela Shanahan. The subject of the article was the Applicant's complaint to the AHRC, whereby the Second Respondent is quoted saying, '*the person was removed from the Giggle app because they are male, no other reason. The removal was manual. I looked at the onboarding selfie and I saw a man. The AI software had let them through, thereby making a mistake that I rectified.*'
20. On 6 June 2022, the applicant filed an application in the Federal Circuit and Family Court (SYG808/2022) with the assistance of her then legal representatives, the Inner City Legal Centre (ICLC), seeking orders pursuant to s 46PO(4) of the AHRCA.
21. The matter was listed for a Directions Hearing before Her Honour Judge Laing on 8 July 2022.
22. On or around late June/early July 2022, comments posted on the Second Respondent's Twitter feed led the Applicant and her representatives to believe that the Respondents intended to raise constitutional issues in their defence. These issues were not particularised, but the Second Respondent commented that she was willing to 'take the matter all the way to the High Court'.
23. Being unwilling to bear the risk of an adverse costs order in the High Court on 4 July 2022 the Applicant filed a Notice of Discontinuance with the Court and the matter was discontinued.
24. The Applicant subsequently received limited funding to cover any adverse costs order that may be made against her and now wishes to pursue her claim.
25. The Applicant now seeks leave of the Court to bring this application out of time.

### **Legislation**

The Applicant claims that the discrimination complained of is unlawful under the *Sex Discrimination Act 1984* (Cth), sections 4, 5B(1)(a), 5B(1)(B), 22(a) to (c), 86, 94.

### **Remedy sought**

The Applicant asks the Court for:

1. declarations that the First Respondent contravened sections 4, 5B(1)(a), 5B(1)(B) and 22(a) to (c) of the *Sex Discrimination Act 1984* (Cth);
2. declarations that the Second Respondent contravened sections 4, 5B(1)(a), 5B(1)(B) and 22(a) to (c), 86 and 94 of the *Sex Discrimination Act 1984* (Cth);





3. general damages;
4. a published written apology from the Respondents;
5. an order that the First Respondent must allow the Applicant the same access to the App as is provided to other female users upon the First Respondent's usual terms of trade;

### **Accompanying documents**

This application must be accompanied by:

1. A copy of the original complaint to the Australian Human Rights Commission.
2. The notice of termination of complaint given by the President of the Australian Human Rights Commission.

### **Applicant's details**

The Applicant's relationship to the Respondent is customer.

The Applicant is over 18 years.

### **Extension of time**

Date of issue of notice under section 46PH(2) of the *Australian Human Rights Commission Act 1986*: 5 April 2022.

The Applicant asks for an extension of time to lodge this application because the Applicant faced access to justice issues which led her to discontinue her prior application which was made within time. In particular, the Applicant was unwilling to accept the financial risk of a potential adverse costs order. However, since discontinuance, the Applicant has secured (limited) funding for adverse costs indemnity and now wishes to pursue the claim.

### **Applicant's address**

The Applicant's address for service is:

Place: 6/600 Bourke Street, Melbourne, VIC 3000

Email: [Corrina.Dowling@bnlaw.com.au](mailto:Corrina.Dowling@bnlaw.com.au) and [Heloise.Williams@bnlaw.com.au](mailto:Heloise.Williams@bnlaw.com.au)

The Applicant's address is PO Box 5042, East Lismore, NSW 2480

### **Service on the Respondent**

It is intended to serve this application on the Respondent.



Date: 22 December 2022

A handwritten signature in cursive script, appearing to read "C Dowling".

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Signed by **Corrina Dowling**  
***Solicitors for the Applicant***

**Schedule**

No. of 20

Federal Court of Australia  
District Registry: New South Wales  
Division: Human Rights Division

**Respondents**

Second Respondent: **SALLY GROVER**

Date: 22 December 2022