

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged: Application for Leave to Appeal - Form 117 - Rule 35.12(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 8/10/2025 12:57:19 PM AEDT  
Date Accepted for Filing: 8/10/2025 3:28:59 PM AEDT  
File Number: NSD1847/2025  
File Title: ABBEY LABORATORIES PTY LTD ACN 156 000 430 & ANOR v VIRBAC (AUSTRALIA) PTY LTD ACN 003 268 871  
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.

Form 117  
Rule 35.12(1)



## Application for leave to appeal

No. \_\_\_\_\_ of 2025

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Abbey Laboratories Pty Ltd (ACN 156 000 430)** and another named in the schedule  
Applicants

**Virbac (Australia) Pty Ltd (ACN 003 268 871)**  
Respondent

To the Respondent

The Applicants apply 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:**

**Place:** Law Courts Building, 184 Phillip St, Queens Square, Sydney, NSW 2000

The Court ordered that the time for serving this application be abridged to.

Date:

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

Filed on behalf of	Abbey Laboratories Pty Ltd, and Abbey Animal Health Pty Ltd, Applicants
Prepared by	Rebecca Currey
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Leave to appeal is required by s 24(1A) of the *Federal Court of Australia Act 1976* (Cth). The Applicants apply for leave to appeal from the declaration, certification and orders 1, 3, 4, 5, 7, and 8 of the Federal Court, made with reasons published in *Abbey Laboratories Pty Ltd v Virbac (Australia) Pty Ltd (No 3)* [2025] FCA 1179 on 24 September 2025 at Sydney, concerning findings of a lack of anticipation of the patent in suit.

### **Grounds of application**

1. In all the circumstances of the case, the parts of the decision of Justice Jackman concerning a lack of anticipation of the patent in suit are attended by sufficient doubt to warrant being reconsidered.
2. Substantial injustice will result if leave is refused supposing those parts of the decision to be wrong.

### **Other applications**

1. If the application is opposed by the Respondent, the Applicants wish to have the application dealt with in an oral hearing.

### **Accompanying documents**

This application must be accompanied by the following:

1. the judgment or order from which leave to appeal is brought;
2. the reasons, if published, for the judgment or order;
3. an affidavit stating the facts that support the application;
4. a draft notice of appeal that complies with rules 36.01(1) and (2); and
5. if the Applicants want to have the application considered without oral argument – a statement to that effect.

### **Applicants' address**

The Applicants' address for service is:

Place: Bird & Bird, Level 22, 25 Martin Place SYDNEY NSW 2000

Email: rebecca.currey@twobirds.com

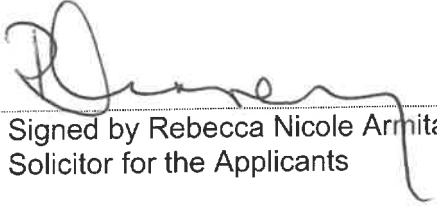
The Applicants' address is Unit 17 1 Maitland Place NORWEST NSW 2153.



**Service on the Respondent**

It is intended to serve this application on the Respondent.

Date: 7 October 2025

  
Signed by Rebecca Nicole Armitage Currey  
Solicitor for the Applicants



**Schedule**

No. of 20

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Appellants**

Second Appellant: Abbey Animal Health Pty Ltd (ACN 164 159 764)