

SUPREME COURT OF QUEENSLAND

CITATION: *In the will of Barbara Joan Groves (deceased)* [2026] QSC 250

IN THE WILL OF BARBARA JOAN GROVES
(deceased)

LYNDA ALLISON WHITE
(applicant)

v

LOUISE MICHELLE DAVIES
(respondent)

FILE NO/S: SE07699/26 and SE09150/26

DIVISION: Trial Division

PROCEEDING: Rule 982 Referral

ORIGINATING COURT: Supreme Court of Queensland at Brisbane

DELIVERED ON: 14 October 2026

DELIVERED AT: Brisbane

HEARING DATE: On the papers

JUDGE: Treston J

ORDER: **1. The court directs, pursuant to r 982(3) of the *Uniform Civil Procedure Rules 1999* (Qld), that the registrar may proceed pursuant to r 625(6) to process the application for probate made by the applicant in the Estate of Barbara Joan Groves as if no caveat had been filed.**

CATCHWORDS: PROCEDURE – MISCELLANEOUS PROCEDURAL MATTERS – REFERENCE AND REMOVAL OF PROCEEDINGS AND APPEAL AND REVIEW WITHIN COURT – GENERALLY – where the registrar refers a question to a judge pursuant to r 982 of the *Uniform Civil Procedure Rules 1999* (Qld) – where self-represented caveator lodged a document prior to an application for a grant of probate being filed – where document entitled “Caveat Supporting Statement” but does not accord with the requirements of the approved form – where notice under r 652(2) sent to the caveator and the applicant for probate – where no steps taken in respect of the caveat – where registrar wishes to progress the application for probate – whether any unfairness occasioned by the registrar proceeding with the probate application

Uniform Civil Procedure Rules 1999 (Qld), r 982, r 625

- [1] The registrar has referred a matter under r 982 of the *Uniform Civil Procedure Rules 1999* (Qld) (UCPR)¹ to me as the Wills and Estates List Judge as to whether an informal document entitled “Caveat Supporting Statement” and its annexure are acceptable to the court as a notice to support a caveat under r 625(4) notwithstanding that the caveat was not in the approved Form 118, and, at the time it was lodged, there was no application for probate which had been filed.
- [2] Further, the registrar seeks a direction as to, if the documents are considered a notice in support of a caveat, the steps the registry should take to ensure procedural fairness for all parties.

Background

- [3] The deceased died leaving a will dated 12 July 2024.
- [4] Prior to an application for probate being filed, one of the deceased’s children filed a caveat on 30 June 2026. The caveat was filed together with two documents referred to as “Caveat Supporting Statement” and “Annexure A”. Those two documents were not accepted for filing by the registry because they did not meet the formal requirements of Form 118.
- [5] An application for probate of the deceased’s will was filed by the named executor on 13 July 2026.
- [6] On 31 July 2026, a notice under r 625(2) was sent to the caveator and the applicant. The notice reads:

“TAKE NOTICE that an application for a grant of probate of the will of the deceased dated 12 July 2024 has been filed in the Court by LYNDAL ALLISON WHITE c/o Briese Lawyers who claims to be the sole executor named in the will.

AND take notice, that within eight days after the service of this notice on the caveator, a notice to support the caveat must be filed setting out the interest claimed in the estate.

AND further take notice, if the caveator does not file a notice to support the caveat in Form 118 the Court may proceed to make the grant in the caveator’s absence.”
- [7] The caveator has taken no further steps in respect of the caveat.
- [8] On 30 September 2026 the applicant’s representatives contacted the registry to progress the matter as no further filing had been made by the caveator.
- [9] The caveator is self-represented.

¹ Any reference to a rule or rules within these reasons is a reference to rules within the UCPR.

What steps should the registrar take to progress the probate application?

[10] Rule 625 of the UCPR provides:

- “(1) Unless the court otherwise orders, nothing may be done on an application to which a caveat relates, whether filed before or after the filing of the caveat, until at least 8 days after service by the registrar of notice under subrule (2) on the caveator.
- (2) If a caveat is filed, whether before or after an application is filed, the registrar must give to the caveator and the applicant, notice in the approved form of the filing of the caveat.
- (3) The notice—
 - (a) must state a date, not later than the end of the 8 days under subrule (1), by which the caveator must file a notice to support the caveat; and
 - (b) must be given as soon as practicable after an application is filed.
- (4) Within the time stated in the notice under subrule (2), the caveator must file a notice to support the caveat and serve a copy of it on the applicant at the address for the applicant stated in the application.
- (5) If the caveat is filed after the application to which it relates, the caveator may file a notice to support the caveat when filing the caveat.
- (6) If the notice to support the caveat is not filed within 8 days after service of the notice under subrule (2), the registrar may consider the application as if no caveat had been filed.
- (7) If a notice to support the caveat is filed, a further step on the application may not be taken unless the caveat is set aside or withdrawn.
- (8) However, the applicant may start a proceeding against the caveator seeking the making of a grant as sought in the application.
- (9) If the applicant starts a proceeding under subrule (8), the claim may be served at the address for service given in the caveat.”

[11] Pursuant to r 625(2), therefore, if a caveat is filed, whether before or after an application is filed, the registrar must give to the caveator and the applicant a notice in the approved form of the filing of the caveat. Such a notice was given by the registrar here notwithstanding that the documents referred to as “Caveat Supporting Statement” and “Annexure A” were filed before the application for probate.

[12] As required by r 625(3), the notice set out at [6] above stated a date not later than the end of the eight days under subrule (1) by which the caveator must file a notice to support the caveat. The notice was given as soon as practicable after an application was filed.

- [13] The registrar has therefore complied with r 625(2) and (3) and given the caveator a notice in accordance with the approved form.
- [14] Upon issue of the registrar's notice, the caveator must then file a notice to support the caveat and serve a copy of it on the applicant at the address for the applicant stated in the application: r 625(4).
- [15] If the notice to support the caveat is not filed within eight days after service of the notice under subrule (2), the registrar may consider the application as if no caveat had been filed: r 625(6).
- [16] Having been given the notice by the registrar, there is no evidence that Ms Davies, the caveator, has filed a notice to support the caveat within eight days after service of the notice issued under 625(2).
- [17] There is no unfairness to Ms Davies by the registrar proceeding with the application for the grant to probate in accordance with the established procedure in the rules.
- [18] In the circumstances, the registrar's notice having clearly set out the time frame by which the caveator must file a notice to support the caveat, and no notices supporting the caveat having been filed, the registrar is justified in proceeding with the applicant's application in the manner contemplated by r 625(6) – that is, as if no caveat had been filed. Although the caveator is self-represented, the notice to her is clear. There are certain steps the caveator must take within the time identified in the notice, and that has not occurred.
- [19] In a similar way, if a caveat is in force and a court orders a caveator to commence a proceeding and they do not, the caveat stops having effect: r 626(4). The caveat therefore does not, and is not intended to, stop an application from proceeding for all time. Procedure needs to be followed, and here it has not been.
- [20] Matters of discretion aside, fairness invariably involves applying the rules in the same manner to both self-represented and represented parties.