

BETWEEN:

WINGFOOT AUSTRALIA PARTNERS PTY  
LTD and GOODYEAR TYRES PTY LTD  
Appellants

- and -

EYUP KOCAK  
First Respondent

- and -

DR PETER LOWTHIAN (as  
Convenor of medical panels pursuant  
to the provisions of the *Accident Compensation  
Act 1985*)  
Second Respondent

- and -

MEDICAL PANEL (Constituted by  
Dr Stephen Jensen, Mr Kevin Siu and  
Mr John Bourke)  
Third Respondent

APPELLANTS' CHRONOLOGY

Part I:

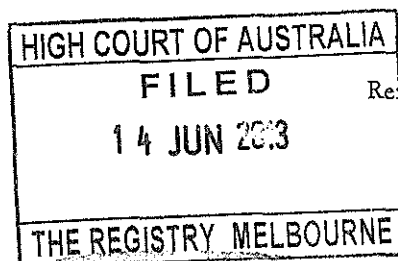
We certify that this chronology is in a form suitable for publication on the Internet.

Part II:

Date	Event
1992	The first respondent ( <b>the Worker</b> ) commenced employment with the appellants, trading as South Pacific Tyres ( <b>the Employers</b> ). <i>Reasons of the Court of Appeal at [3], AB [*]</i>
16 October 1996	The Worker suffered a neck injury while pulling a heavy spool of rubber at work ( <b>the 1996 injury</b> ). He was put on light duties for about three months until January 1997. <i>Reasons of the Court of Appeal at [4], AB [*]</i>

Filed on behalf of: the appellants

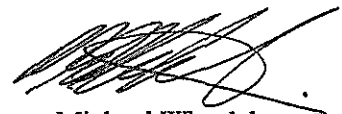
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Date	Event
8 May 2000	<p>The Worker suffered a major injury to his lower back (<b>the 2000 injury</b>). The Worker submitted a WorkCover claim in respect of the 2000 injury, which claim was accepted.</p> <p><i>Reasons of the Court of Appeal at [5], AB [*]</i></p>
March 2001	<p>Although the Worker initially returned to work on light duties following the 2000 injury, he ceased work in March 2001 and has not worked since.</p> <p><i>Reasons of the Court of Appeal at [5], AB [*]</i></p>
2007	<p>The Worker commenced a proceeding in the Common Law Division of the Supreme Court of Victoria, seeking damages in respect of the 2000 injury. That proceeding is still pending.</p> <p><i>Reasons of the Court of Appeal at [6], AB [*]</i></p>
March 2009	<p>The Worker developed more significant symptoms in his neck. He was admitted to hospital. His neurosurgeon recommended surgery and sought acceptance of liability for treatment expenses (surgery and an orthopaedic bed) by reference to the claim for compensation for the 2000 (lower back) injury. The claim was refused on the basis that the Worker's neck complaint was not related to the 2000 injury.</p> <p><i>Reasons of the Court of Appeal at [7], AB [*]</i></p>
May 2009	<p>The Worker submitted a new WorkCover claim, alleging that his neck condition was related to 1996 injury. That claim was also refused.</p> <p><i>Reasons of the Court of Appeal at [8], AB [*]</i></p>
29 June 2009	<p>A conciliation officer certified that conciliation had failed to resolve the dispute as to liability for treatment expenses related to the Worker's neck injury.</p> <p><i>Reasons of the Court of Appeal at [8], AB [*]</i></p>
November 2009	<p>The Worker commenced two proceedings in the County Court of Victoria relating to the 1996 injury: one seeking (among other things) leave to bring common law proceedings pursuant to 135A(4)(b) of the <i>Accident Compensation Act 1985 (Vic) (Act)</i>, and the other seeking a declaration of entitlement to medical or like expenses pursuant to s 99 of the Act.</p> <p><i>Reasons of the Court of Appeal at [9]-[10], AB [*]</i></p>
2 February 2010	<p>The s 99 compensation proceeding was transferred to the Magistrates' Court.</p> <p><i>Reasons of the Court of Appeal at [10], AB [*]</i></p>
8 June 2010	<p>At the Employers' request, the Magistrates' Court referred three medical questions for determination pursuant to s 45(1)(b) of the Act. A medical panel was assembled, comprising the third respondents.</p> <p><i>Reasons of the primary judge at [19]; reasons of the Court of Appeal at [12], AB [*]</i></p>

Date	Event
15 August 2010	<p>The medical panel gave notice of its opinion pursuant to s 68 of the Act, together with a statement of reasons. The certificate of opinion and statement of reasons were received by the Worker's solicitors on 26 August 2010.</p> <p><i>Reasons of the primary judge at [19], [104], AB [*]</i></p>
20 September 2010	<p>The Worker's solicitors returned to the Employers' solicitors a signed minute of consent orders, providing (among other things) that the Magistrates' Court adopt the medical panel's opinion dated 15 August 2010 and that the proceeding be dismissed.</p> <p><i>Reasons of the Court of Appeal at [16], AB [*]</i></p>
29 September 2010	<p>Orders in the terms of the minute of consent orders were formally made in the Magistrates' Court.</p> <p><i>Reasons of the primary judge at [24], AB [*]</i></p>
3 November 2010	<p>At the commencement of the hearing of the Worker's application in the County Court for leave to bring a damages proceeding, the Employers' counsel foreshadowed that the Employers would contend that the County Court was bound by the medical panel opinion, either by virtue of s 68(4) of the Act, or on the basis that the Magistrates' Court consent order gave rise to a common law issue estoppel which precluded the Worker from arguing that his cervical spine disorder was related to the 1996 injury. The hearing of the application was then adjourned.</p> <p><i>Reasons of the primary judge at [26] and [28]; reasons of the Court of Appeal at [18], AB [*]</i></p>



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