



KING & WOOD
MALLESONS

**2017 KING & WOOD MALLESONS
MOOTING COMPETITION
ROUND THREE**

BETWEEN:

Victorian Police Department (APPELLANT)

and

Giorgio Vuković (RESPONDENT)

STATEMENT OF AGREED FACTS

1. Throughout 2015 and 2016, a series of burglaries plagued South Yarra businesses, causing a great deal of property loss.
2. In response, the Victorian Police Department, a public authority (statutory authority), launched an extensive investigation, deciding to deploy police officers and associated resources to the area to solve the crimes.
3. Constable DoGood, newly recruited to the police force, was assigned to help investigate. In management's view, what he lacked in experience he made up for in enthusiasm. Moreover, the use of cheaper inexperienced personnel allowed for the deployment of more experienced, higher-paid police officers to deal with more serious situations, such as the on-going unrest at Victoria's youth detentions centres.
4. In mid-August 2016, senior police officers received information from unconfirmed sources. The information suggested that one of the persons responsible for the burglaries might strike the 'Millennial Boutique', Chapel Street, for the third time in a month.
5. In telephone conversations, the same sources indicated that the burglar was well known in criminal circles, and described him as male, around 18 years old, tall, medium build, darker than average skin. The sources intimated that the burglar might be armed.
6. Senior police officers directed Constable DoGood to place the Millennial Boutique under 24 hour surveillance.
7. At 12 midnight, on a dark and stormy night in late August, DoGood and his partner, newly recruited and similarly enthusiastic Constable DoRight observed a shadowy figure leaving the Millennial Boutique with what appeared to be a duffel bag.
8. In the heat of the moment, without remembering to call for back-up as instructed by management, Officers DoGood and DoRight left their squad car and rushed towards the figure. Officer DoGood drew his weapon and shouted, 'Stop, police!'
9. The figure hesitated momentarily and appeared to reach into his duffel bag.

10. Officer DoGood fired his revolver, shooting the figure, causing serious injury.
11. The 'figure' - male, 19 years old, with olive skin - turned out to be the Millennial Boutique's recently recruited cleaner, Giorgio Vuković. Giorgio had migrated to Australia from Central Asia a year or so ago, having spent several traumatic years in a refugee camp.
12. Except for a high powered vacuum cleaner and industrial strength disinfectant, Giorgio was unarmed.
13. Giorgio had to be hospitalised. His right leg had to be amputated due to the shooting.
14. Giorgio suffered extreme pain as a result of his injury and surgery.
15. While in hospital, to deal with his acute pain, Giorgio found an unclean syringe in a hospital rubbish bin and injected himself with morphine. Giorgio found the morphine in an unlocked medicine cabinet.
16. When he was in the refugee camp, Giorgio developed an addiction to heroin. The drug helped him endure and ultimately survive the refugee camp's horrendous conditions. However, prior to the shooting at the Millennial Boutique, for a period of six months, Giorgio was a proud, happily recovering opiate user. That is, had not used any opiates during that six month period.
17. After injecting morphine while in the hospital, Giorgio's addiction to opiates such as heroin and morphine returned.
18. Giorgio developed HIV from using the unclean syringe.
19. Giorgio brought an action in negligence against the Victorian Police Department for his amputation, addiction and HIV.
20. At first instance, the trial judge held in favour of the Victorian Police Department.
21. In a 3 to 2 decision, the Supreme Court of Victoria, Court of Appeal, reversed the trial judge's decision, holding in favour of Giorgio.
22. The Victorian Police Department now argues before the High Court of Australia that the majority of the Supreme Court of Victoria, Court of Appeal erred when it held as follows:
 - a) The Appellant owed a duty of care to the Respondent;
 - b) The Appellant caused the Respondent's harm.
23. It was accepted for this appeal that the only relevant statute is the *Wrongs Act 1958* (Vic), which must be used in conjunction with common law doctrine. No other Victorian or Commonwealth legislative provisions apply.