

BETWEEN:

**Victorian Police Department**

(APPELLANT)

*and*

**Giorgio Vuković**

(RESPONDENT)

## **RESPONDENT'S OUTLINE OF SUBMISSIONS**

SENIOR COUNSEL  
JUNIOR COUNSEL  
INSTRUCTING SOLICITOR

Elizabeth Dixon  
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### **Summary of Submissions**

- 1. The appellant owed a duty of care to the respondent.**
- 2. The appellant caused the respondent's harm.**

## **1 The appellant owed the respondent a duty of care.**

### **1. It was reasonably foreseeable that harm would come to a member of the public if officers are inexperienced and armed.**

- *Chapman v Hearse* (1961) 106 CLR 112.
- *Sullivan v Moody* (2001) 207 CLR 562.

### **1.2. The Police immunity principle does not apply on the current facts as it was an incident of ‘specifically identified antecedent negligence’.**

- *Cran v State of New South Wales* [2004] NSWCA 92.
- *Hill v Chief Constable of West Yorkshire* [1989] AC 53.
- *State of Victoria v Richards* (2010) 27 VR 343.
- *Zalewski and State of Victoria v Turcarola* [1995] 2 VR 562.

### **1.3. Whilst *Wrongs Act 1958* (Cth) may imply that no duty exists, these considerations are outweighed by salient feature analysis in favour of a duty being found.**

- *Graham Barclay Oysters v Ryan* (2002) 211 CLR 540.
- *State of Victoria v Richards* (2010) 27 VR 343.
- *Zalewski and State of Victoria v Turcarola* [1995] 2 VR 562.
- *Wrongs Act 1958* (Cth) ss 79-83.

### **1.4. Alternatively, on the basis of policy the police immunity should be discarded.**

- *Australian Capital Territory v Crowley* (2012) 7 ACTLR 142.
- *Barrett v Enfield London Borough Council* [1999] 3 All ER.
- *Zalewski and State of Victoria v Turcarola* [1995] 2 VR 562.

## **2 The appellant caused the respondent’s harm.**

### **2.1. But for the appellant’s breach, the respondent wouldn’t have suffered the physical and consequential mental harm.**

- *Wrongs Act 1958* (Cth) s 51.
- *Zanner v Zanner* (2010) 79 NSWLR 702.

### **2.2 Due to policy considerations, it is appropriate to impose liability in the circumstances.**

- *Wrongs Act 1958* (Cth) s 51.

### **2.3 There have been no new intervening acts that break the chain of causation.**

- *Goodsell v Murphy* (2002) 36 MVR 408.
- *Haber v Walker* [1963] VR 339.
- *Mahony v J Kruschich (Demolitions) Pty Ltd* (1985) 156 CLR 522.
- *Yates v Jones* (1990) Aust Torts Reports 81-009.

### **2.4 The kind of harm suffered by the respondent was reasonably foreseeable as a result of the appellant’s negligence.**

- *Chapman v Hearse* (1961) 106 CLR 112.
- *Gittani Stone Pty Ltd v Pavkovic* (2007) Aust Torts Reports 81.
- *Hughes v Lord Advocate* [1963] AC 837.
- *Nader v Urban Transit Authority of NSW* (1985) 2 NSWLR 501.
- *Wrongs Act 1958* (Cth) s 74.

## AUTHORITIES CITED

### A. Cases

*Australian Capital Territory v Crowley* (2012) 7 ACTLR 142.  
*Barrett v Enfield London Borough Council* [1999] 3 All ER.  
*Chapman v Hearse* (1961) 106 CLR 112.  
*Cran v State of New South Wales* [2004] NSWCA 92.  
*Gittani Stone Pty Ltd v Pavkovic* (2007) Aust Torts Reports 81.  
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### B. Legislation

*Wrongs Act 1958* (Cth).