

BETWEEN:

**MICHAEL WILSON AND
PARTNERS LIMITED**

Appellant

and

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ROBERT COLIN NICHOLLS

First Respondent

DAVID ROSS SLATER

Second Respondent

TEMUJIN SERVICES LIMITED

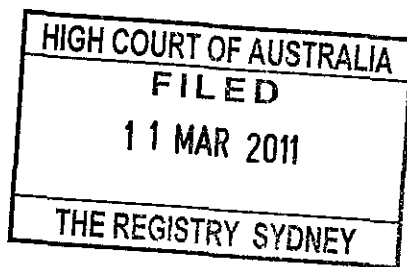
Third Respondent

**TEMUJIN INTERNATIONAL
LIMITED**

Fourth Respondent

TEMUJIN INTERNATIONAL FZE

Fifth Respondent



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APPELLANT'S CHRONOLOGY

Part I:

The Appellant certifies that this chronology is in a form suitable for publication on the Internet.

Part II:

30 Set out below is a chronology of the principal events leading to, during and after the litigation. Part A of the chronology relates to the abuse of process question in this appeal (paragraph 2 of the Notice of Appeal). Part B of the chronology related to the apprehended bias and waiver questions in this appeal (paragraphs 3 and 4 of the Notice of Appeal).

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Part A: Abuse of Process Chronology

| Date | Event | Appeal Book Ref |
|-------------------|--|-----------------|
| 14 August 2006 | MWP served a Notice of Arbitration on Emmott, commencing an arbitration in London. | |
| 9 October 2006 | MWP commenced Supreme Court of NSW proceedings No. 50151 of 2006 against the Respondents. | |
| 5 December 2006 | MWP invited Emmott to consent to being joined to the NSW proceedings. | |
| 21 December 2006 | Emmott declined to be joined to the NSW proceedings and threatened an anti-suit injunction should MWP take any steps to do so. | |
| 10 November 2008 | The London arbitration hearing commenced on the issue on liability only. | |
| 15 June 2009 | The trial of the NSW proceedings commenced before Einstein J on all issues (liability and quantum). | |
| 10 September 2009 | The trial of the NSW proceedings concluded. | |
| 6 October 2009 | Einstein J published reasons in the NSW Proceeding. | |
| 11 December 2009 | Einstein J published supplementary reasons and made final orders. | |
| 14 December 2009 | The respondents filed a Notice of Appeal in the NSW Court of Appeal. | |
| 22 February 2010 | The Arbitral Tribunal published an interim award on liability only, entitled the "Second Interim Arbitral Award". | |

| Date | Event | Appeal Book Ref |
|-------------------|--|-----------------|
| 22 March 2010 | MWP filed a Claim Form (Arbitration) in the High Court of Justice challenging parts of the Interim Award under s 68 (serious irregularity) and s 69 (error of law) of the Arbitration Act 1996 (UK). | |
| 24 March 2010 | The Arbitral Tribunal published its 17th Procedural Order consequent upon the Award. | |
| 6 April 2010 | The Arbitral Tribunal published a "Clarification" of the Award. | |
| 26 – 30 July 2010 | The Appeal was heard before Basten and Young JJA, and Lindgren AJA. | |
| 3 September 2010 | The Court of Appeal delivered judgment. | |
| 11 March 2011 | The High Court (French CJ and Heydon J) granted the appellant special leave to appeal from the judgment of the Court of Appeal. | |

Part B: Apprehended Bias and Waiver Chronology

| Date | Event | Appeal Book Ref |
|---------------|---|-----------------|
| 26 March 2007 | <i>Ex parte</i> application by the appellant before Einstein J. Einstein J made confidential orders, inter alia: (a) granting the appellant leave to issue a subpoena to Macquarie Bank; (b) permitting the dissemination to the appellant of confidential disclosure affidavits prepared by the first and second respondent; (c) permitting the use of the disclosure affidavits in proceedings to be brought in the Eastern Caribbean Supreme Court and in possible criminal proceedings in Switzerland. | |
| 5 April 2007 | Einstein J ordered that the then existing confidentiality regime be removed save for any | |

| Date | Event | Appeal Book Ref |
|---------------|--|-----------------|
| | reference to possible Swiss criminal proceedings. | |
| 10 April 2007 | <i>Ex parte</i> application by the appellant before Einstein J. Einstein J made confidential orders granting the appellant leave, <i>inter alia</i> , to use the disclosure affidavits for the purpose of making a proposed criminal complaint in Switzerland against Mr Emmott and Mr Rise and in relation to other overseas investigations. | |
| 12 April 2007 | Einstein J handed down judgment in relation to the Appellant's motion of 10 April 2007. | |
| 6 June 2007 | At Einstein J's request, an <i>ex parte</i> hearing occurred to consider the extent to which the confidentiality of the proceedings so far as they concerned possible Swiss criminal proceedings needed to be continued. | |
| 8 June 2007 | Upon receiving evidence from the appellant, Einstein J was satisfied that the confidentiality regime be continued. | |
| 6 June 2008 | The Respondents filed an application seeking access to documents in a sealed envelope on the Court file marked "Confidential-not to be opened until further order of the Court" pursuant to the orders of Einstein J dated 18 and 31 October 2007. | |
| 13 June 2008 | Bergin J ordered that the Respondents' legal representatives were at liberty to inspect the documents in the envelope, subject to an inspection regime. | |
| 4 June 2009 | The Respondents objected to Einstein J hearing the trial of the proceedings. Einstein J declined to recuse himself but offered to make an order from which the defendants could seek leave to appeal so | |

Date **Event** **Appeal Book Ref**

as to test his decision.

9 June 2009 The Respondents' advised that they maintained their objection to Einstein J hearing the trial and proposed to appeal on the issue of bias if Einstein J made an adverse final judgment against them.

15 June 2009 The trial commenced. [See further under Part A]

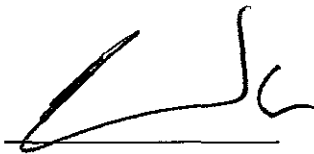
Date: 11 March 2011

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