IN THE SUPREME COURT OF VICTORIA **No. S ECI 202**
AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDINGS LIST

BETWEEN

JARAD MAXWELL ROOKE

Plaintiff

and

AUSTRALIAN FOOTBALL LEAGUE
(ACN 004 155 211)

Defendant

DEFENCE

Date of Document:	12 February 2024
Filed on behalf of:	the Defendant
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To the Plaintiff's Statement of Claim dated 6 December 2023, the Defendant (**the AFL**) says as follows:

PART I – THE PARTIES

The Defendant

1. It admits that until 23 January 1990 it was known as the Victorian Football League (**VFL**).

2. It admits that from 24 January 1990 it has been known as the Australian Football League or the AFL.

3. Subject to the pleadings in paragraphs 1 and 2 above, it admits paragraph 3.

4. It admits paragraph 4.

5. As to paragraph 5, save that it says that until 23 January 1990 it was known as the VFL and that from 24 January 1990 it has been known as the AFL, it:

    (a) admits sub-paragraph 5(a), save that it says that prior to 14 March 2018, it operated under a memorandum of association and articles of association;

    (b) admits that there was a board of Commissioners during the period but otherwise does not admit the allegations in sub-paragraph 5(b);

    (c) admits that until 23 January 1990 it conducted an Australian Football competition under the name of the VFL and from 24 January 1990 it conducted an Australian Football competition under the name of the AFL (together, **the AFL Competition**) and otherwise does not admit the allegations in sub-paragraph 5(c);

    (d) as to paragraph 5(d):

        (i) admits that during the period it entered into licensing agreements with a number of licensees (**Licensees**) to field teams to participate in the AFL Competition (**the licensing agreements**);

Particulars

Copies of various licence agreements entered into by the Defendant during the period are in the possession of the Defendant's solicitors and are available for inspection.

(ii) says the pursuant to the licensing agreements it granted each of the Licensees a licence to field a team, or teams, in the AFL Competition on and subject to the terms and conditions of the licensing agreements;

(iii) otherwise does not admit sub-paragraph 5(d);

(e) it admits sub-paragraph 5(e);

(f) as to sub-paragraph 5(f), it:

(i) denies any allegation that it was unilaterally or solely responsible for determining the terms and conditions upon which persons, including the Plaintiff, participated as players in the AFL Competition;

(ii) says that the terms and conditions upon which players played for Clubs participating in the AFL Competition were agreed as between each of those players and their employee Club, including pursuant to the terms as set out in their contracts of employment;

(iii) says further that from at least 1990 it and/or the Clubs and the Australian Football League Players' Association, on behalf of the players, negotiated, and entered into, Collective Bargaining Agreements in relation to the minimum terms and conditions of employment of players by Clubs; and

(iv) was a party to player contracts entered pursuant to those Collective Bargaining Agreements referred to above.

(g) subject to the matters pleaded above at sub-paragraphs 5(e) and (f), it admits sub-paragraph 5(g);

(h) as to sub-paragraph 5(h), it:

(i) refers to and repeats sub-paragraph 5(a);

(ii) says that the allegation that the "rules, regulations and by-laws of, and in connection with, the operation of the AFL Competition" were binding on AFL players and Clubs is a vague allegation relating to the legal effect of unspecified rules, regulations, and by-laws in force over the period of more than 38 years;

(iii) in the premises of the preceding paragraphs, admits that at various times during the period it issued, amended, repealed various rules, regulations, and by-laws in connection with the AFL Competition;

(iv) says that the rules, regulations and by laws referred to in the preceding paragraph included, *inter alia,* the following:

A. AFL Player Rules;

B. AFL Rules;

C. AFL Regulations;

D. Laws of Australian Football; and

E. AFL Players' Code of Conduct.

(v) says that pursuant to the licensing agreements, each of the Licensees was required to, inter alia, at all times:

A. comply with and observe the rules and regulations of the Defendant from time to time in force; and

B. ensure that, or use its best endeavours to procure that, each of the Licensee's officers and employees (including players) complied with and observed the rules and regulations of the Defendant from time to time in force;

(vi) otherwise does not admit sub-paragraph 5(h); and

(i) as to paragraph 5(i), it:

(i) admits that during the period it could hear and determine allegations, complaints or charges which may be made or laid against Clubs and players involving a breach of the Constitution (or prior to 4 March 2018, the Articles of Association), the rules and regulations of AFL, the laws relating to football and / or other rules or regulations relating to the control and management of AFL Competition matches, and impose sanctions for such breaches; and

(ii) otherwise does not admit sub-paragraph 5(i);

6. As to paragraph 6:

(a) save that it admits that:

(i) from about 2000 it permitted the Clubs to place AFL players in the VFL second-tier competition; and

(ii) the Australian Football League (Victoria) Limited, a company limited by guarantee for which the AFL is the only voting member, has operated the VFL second-tier competition since in or about 2011.

(b) it otherwise does not admit paragraph 6.

7. As to paragraph 7, it:

(a) refers to and repeats paragraphs 1 and 2 above;

(b) admits that during the period it had power to make rules in respect of the conduct of the AFL Competition;

(c) says that during the period the Clubs were the employers of their respective AFL player employees;

(d) says that the Clubs, as the AFL players' employers, along with the AFL players themselves, were responsible for the health and wellbeing of the players during matches and training;

(e) says further that during the period, qualified medical practitioners and various allied health professionals were engaged by the Clubs to provide medical assessment, advice, care and treatment of injuries and suspected injuries to AFL players as employees of each of the relevant Clubs during matches and training;

(f) otherwise, does not admit the allegations.

The Plaintiff

8. It admits paragraph 8.

9. As to paragraph 9:

   (a) it admits sub-paragraph 9(a), and says that during the period (as defined in the Statement of Claim) the Geelong Football Club was the Plaintiff's employer (**Employer**);

   (b) as to sub-paragraph 9(b), it:

      (i) says that the Plaintiff entered into Standard Playing Contracts with the AFL and his Employer on:

         A. 11 December 2001, for a term expiring on 31 October 2002;

         B. 25 November 2002, for a term expiring on 31 October 2004;

         C. 12 November 2003, for a term expiring on 31 October 2005; and

         D. 23 June 2005, for an initial term expiring on 31 October 2007 (**2005 SPC**);

      (collectively, **the Plaintiff's SPCs**)

      (ii) says that on 31 October 2007 the Plaintiff entered into a variation agreement that extended the term of the 2005 SPC for a further period of three years until 31 October 2010 (**Plaintiff's SPC Extension**);

Particulars

Copies of the Plaintiff's SPCs and the Plaintiff's SPC Extension are in the possession of the Defendant's solicitors and are available for inspection.

(iii) denies that the Plaintiff entered into annual SPCs with the Defendant and his Employer; and

(iv) otherwise does not admit sub-paragraph 9(b).

(c) it admits paragraph 9(c); and

(d) it admits paragraph 9(d).

The group members

10. As to paragraph 10:

(a) insofar as the allegations relate to it, it does not admit the allegations;

(b) it otherwise does not plead to it as it contains no allegations against it.

11. As to paragraph 11:

(a) insofar as the allegations relate to it, it does not admit the allegations;

(b) it otherwise does not plead to it as it contains no allegations against it.

12. As to paragraph 12:

(a) insofar as the allegations relate to it, it does not admit the allegations;

(b) it otherwise does not plead to it as it contains no allegations against it.

13. As to paragraph 13:

(a) insofar as the allegations relate to it, it does not admit the allegations;

(b) it otherwise does not plead to it as it contains no allegations against it.

14. As to paragraph 14:

(a) insofar as the allegations relate to it, it does not admit the allegations; and

(b) it otherwise does not plead to it as it contains no allegations against it.

15. As to paragraph 15:

(a) insofar as the allegations relate to it, it does not admit the allegations;

(b) it otherwise does not plead to it as it contains no allegations against it; and

(c) says further that there has been no application under s 33K(1) of the *Supreme Court Act 1986* (Vic) for leave to amend the definition of group members contained in paragraph 1 of the Indorsement of Claim on the Writ dated 14 March 2023.

PART II – DUTY OF CARE

Foreseeability and nature of the harm

16. As to paragraph 16, it:

(a) says that the allegation of reasonable foreseeability "[d]uring the period" is a vague allegation of what was reasonably foreseeable during a period of more than 38 years;

(b) says further that the Plaintiff's various use of the following terms: "head knocks", "concussions", "head injury", "concussion injury", "injury", and "injuries" is unclear;

(c) says further that what was reasonably foreseeable as to the risks identified evolved over that lengthy period of time;

(d) subject to the matters set out in the preceding sub-paragraphs:

(i) admits sub-paragraph 16(a), and says further that such a risk was reasonably foreseeable to any reasonable person throughout the relevant period, including to the Plaintiff; and

(ii) otherwise, denies paragraph 16.

17. As to paragraph 17, it:

(a) refers to and repeats paragraph 16; and

(b) otherwise, denies paragraph 17.

Power and control by the AFL

18. As to paragraph 18, it:

(a) says that the allegations are vague, specifically,

(i) the phrase "*the AFL was able to exercise AFL Competition and VFL competition*" is unclear;

(ii) as is the term "wide control";

(b) otherwise refers to and repeats paragraphs 5 to 7 above; and

(c) denies paragraph 18.

19. As to paragraph 19, it:

(a) admits that AFL players were required to comply with rules and regulations issued by it from time to time during the period including those listed at sub-paragraph 5(h)(iv) above; and

(b) otherwise does not admit paragraph 19.

20. It refers to the matters pleaded above, especially at paragraph 18 and 19, and denies paragraph 20.

Vulnerability of the AFL players

21. It denies paragraph 21, and says further that:

(a) the allegations of vulnerability "[d]uring the period" is a vague allegation as to a period of more than 38 years;

(b) the Plaintiff's use of the terms "head injury" and "concussion injury" is unclear, especially in light of that pleaded in paragraph 17 of the Statement of Claim;

(c) subject to the matters pleaded in the preceding sub-paragraphs, says that:

(i) players were able to, and did, receive advice and treatment from medical doctors and allied health professionals, including those referred to above at sub-paragraph 7(e); and

(ii) players were able to exercise their own judgment and free will in deciding whether and how to train and to play Australian Football and follow medical, allied health or other advice having regard to the risk of traumatic injury to their head, and in particular their brain.

The reliance by the AFL players on the AFL

22. As to paragraph 22, it:

(a) refers to and repeats paragraphs 7, 18 and 21 above; and

(b) otherwise denies paragraph 22.

The assumption of responsibility by the AFL over the AFL players

23. As to paragraph 23, it:

(a) says that responsibility for the management and assessment of players injuries during the AFL Competition matches and training and removal and return of players from those matches and that training fell to the players' employers and those engaged on their behalf as referred to above at sub-paragraph 7(e) and the players themselves; and

(b) otherwise, denies paragraph 23.

Relationship between the AFL and the AFL players

24. It denies paragraph 24, and refers to sub-paragraph 7(c) and paragraph 9 above.

Particulars

The AFL players signed contracts of employment with the Clubs for which they played.

Duty of care

25. It admits that it owed the AFL players a common law duty of care to take reasonable precautions to protect against risks of injury that were foreseeable and not insignificant during AFL Competition matches, but otherwise denies paragraph 25.

26. It denies paragraph 26, and says further that any relevant "system of work" was the responsibility of the AFL players' employers as referred to in sub-paragraph 7(c) above, including the Plaintiff's Employer as referred to in paragraph 9 above.

27. It denies paragraph 27.

PART III – CONCUSSION MANAGEMENT DUTY OF CARE

Foreseeability and nature of the risk of concussion

28. As to paragraph 28, it:

(a) says that the allegation of knowledge "[d]uring the period" is a vague allegation of knowledge said to be held during a period of more than 38 years;

(b) says that any knowledge as to risks alleged evolved over that lengthy period of time;

Particulars

The scientific and medical knowledge will be the subject of expert evidence at trial.

(c) subject to the matters set out in the preceding sub-paragraphs, admits sub-paragraphs 28(a) and (b);

(d) says further that the reference to "acquired brain injury" in sub-paragraph 28(c) is a vague allegation because an acquired brain injury is a broad term encompassing any non-congenital brain injury; and

(e) otherwise does not admit paragraph 28.

29. It denies paragraph 29.

Reasonable precautions against the concussion management risk of harm

30. It does not admit paragraph 30.

The probability that harm would occur if the reasonable precautions were not taken

31. It denies paragraph 31, and refers to and repeats paragraph 28 above, and says further that the applicability of the provision of the *Wrongs Act 1958* (Vic) to the case of any class member, including the Plaintiff, will be circumstance dependent including, by reason of the location in which the injury/injuries alleged were sustained, the usual business location of the club that employed that player and the circumstances, including the location(s) in which the player was treated.

The likely seriousness of the concussion management risk

32. It denies paragraph 32, and refers to and repeats paragraphs 28 and 31, above.

The burden of taking precautions to avoid the concussion management risk of harm

33. It denies paragraph 33, and refers to and repeats sub-paragraph 28(d) and paragraph 31 above.

34. It denies paragraph 34 and refers to and repeats paragraph 31, above.

Social utility and the concussion management risks of harm

35. It does not admit paragraph 35, and refers to and repeats paragraph 31, above.

36. It does not admit paragraph 36 and refers to and repeats paragraph 31, above.

Concussion management duty of care

37. It denies paragraph 37 and refers to and repeats paragraph 31, above, and says further that, at all times during the relevant period, it exercised reasonable care for the health, safety and welfare of the AFL players.

38. It refers to and repeats paragraph 25, and otherwise does not admit paragraph 38.

39. It refers to and repeats paragraph 37, and denies paragraph 39.

PART IV – BREACH OF THE CONCUSSION MANAGEMENT DUTY OF CARE

Failure by the AFL to implement the reasonable precautions

40. As to paragraph 40, it:

(a) says that the allegation is vague as it does not identify from which point during the 38-year time period it is alleged that it failed to take reasonable care to implement each of the alleged reasonable precautions;

(b) subject to the matters set out in the preceding paragraph, it:

(i) denies the allegations in paragraph 40;

(ii) refers to and repeats sub-paragraphs 7(d) and 7(e) above; and

(iii) says further that during the period it issued reasonable rules, regulations and guidelines with respect to the health, safety and welfare of AFL players informed by advice from medical and health professionals and amended from time to time in light of evolving scientific and medical literature regarding head trauma and concussion.

Particulars

(i) Since at least 2000, the AFL has made at least 30 rule changes to the Laws of Australian Football, Regulations and Guidelines targeted to deterring conduct giving rise to risk of head trauma and concussion during matches.

(ii) Since at least 2001, the AFL Player Rules, AFL Rules and / or AFL Regulations, as amended from time to time, have included a rule to the effect that no Club (or any Club officer, coach, servant or agent) is to allow any player to play or to continue to play in any match or train where there are reasonable grounds to suspect that such player may not be

responsible for his actions or is not in a fit state to play or continue to play, having due regard to the player's health and safety.

(iii) Since at least 2001, the AFL Player Rules, AFL Rules and / or AFL Regulations, as amended from time to time, have included a rule to the effect that where there are reasonable grounds to suspect that a player has:

(1) suffered an injury which may cause the player not to be responsible for his actions; or

(2) is not in a fit state to play or continue to play or train, having due regard for his health or safety;

the Club (with which the player is employed) shall immediately cause such player to be examined by its Club Medical Officer and unless such Club Medical Officer certifies that the player is cognisant of and responsible for his actions or in a fit state to play or train having due regard for his health and safety, the player shall not play or train or to continue to play in any match or train and no Club or any Officer or Coach shall permit, allow or direct any such player to play or train or continue to play in any Match in which the Club is engaged or continue to train.

(iv) Since at least 2008, the AFL has issued specific guidelines for the management of concussion and return to play, which have

been amended from time to time and developed in accordance with the AFL Doctors Association and based on Consensus Statements published by the International Conference on Concussion in Sport from time to time.

(v) Since at least April 2015, the AFL has issued the AFL Club Medical Manual which includes a chapter on concussion.

Breach of duty to the AFL players

41. As to paragraph 41, it says that the Plaintiff's use of the term "concussion management failures" is unclear and otherwise denies paragraph 41.

Statutory duties owed by the AFL

42. It denies paragraph 42.

43. It denies paragraph 43, and says further that by reason of s 28 of the *Occupational Health and Safety Act 1985* (Vic) and s 34 of the *Occupational Health and Safety Act 2004* (Vic) nothing in the relevant Parts of those Acts confers a right of action in civil proceedings or affects the extent (if any) to which a right of action arises, or civil proceedings may be taken, with respect to breaches of duties or obligations imposed by the regulations made under those Acts.

44. As to paragraph 44, it:

(a) denies the allegations in paragraph 44;

(b) refers to and repeats paragraph 43 above; and

(c) says further that the applicability of the provision of the 'OHS Regulations' to the case of any class member, including the Plaintiff, will be circumstance dependent including, by reason of the location in which the injury/injuries alleged were sustained, the usual business location of the club that employed that player and the circumstances, including the location(s) in which the player was treated.

45. It denies paragraph 45, and refers to and repeats sub-paragraph 44(c).

46. It denies paragraph 46, and refers to and repeats sub-paragraph 44(c).

47. It denies paragraph 47, and refers to and repeats sub-paragraph 44(c).

The AFL's breach of statutory duty

48. It denies paragraph 48, and refers to and repeats paragraph 40 and sub-paragraph 44(c).

49. It denies paragraph 49 and refers to and repeats sub-paragraph 44(c).

PART VI – ROOKE'S CLAIM

50. As to paragraph 50, it:

(a) says that the allegation is vague in that it does not identify whether the Plaintiff is alleged to have "sustained a significant head knock" or "suffered from, and/or showed symptoms consistent with, concussions" or "suffered from loss of consciousness", or some combination of those things, during each of the matches identified at subparagraphs 50(a)–(w); and

(b) otherwise, does not admit paragraph 50.

51. As to paragraph 51, it:

(a) says that the allegation is vague in that it does not specify whether the Plaintiff "sustained significant head knocks" or "suffered from, or showed symptoms consistent with, concussions" or some combination of those things during any particular training session; and

(b) otherwise, does not admit paragraph 51.

52. As to paragraph 52:

(a) it says that the allegation is vague in that it does not specify which, when or what head knocks to which reference is made;

(b) subject to the matters set out in the preceding paragraph, it:

(i) refers to and repeats sub-paragraphs 7(d)–(e) and paragraph 9 above;

(ii) says further that it was not reasonably practicable for it to provide medical monitoring, assessment and management of all players playing in the AFL and VFL competitions during matches and training;

(iii) says further that the matters alleged by the Plaintiff in paragraph 52 relate to the medical monitoring, assessment and management of the Plaintiff and were the responsibility of the Plaintiff, his Employer and medical doctors and allied health professionals, including those referred to above at sub-paragraph 7(e); and

PARTICULARS

The AFL refers to the Plaintiff's SPCs and the Plaintiff's SPC Extension to in sub-paragraph 9(b) above, especially at Clauses 8.1 and 8.3.

(iv) it does not admit the allegations in sub-paragraphs 52(a)–(e) as it does not know and cannot presently say what monitoring, assessment, treatment, return to play or training programs the Plaintiff received from his Employer or those engaged on its behalf as referred to above at sub-paragraph 7(e) or otherwise.

53. As to paragraph 53, it:

(a) it does not admit paragraph 53;

(b) refers to and repeats sub-paragraph 52(b) above;

(c) says that since from at least 2001, the AFL issued rule and regulations to the effect that any player who was not medically fit (as determined by the Clubs' doctors or allied medical personnel) was not to play, or, as the case may be, train until determined by such persons to be medically fit; and

Particulars

The AFL refers to and repeats particulars (ii) and (iii) to sub-paragraph 40(d) above.

(d) says further that the Plaintiff was able to exercise his own judgment and free will in deciding whether, and how, to continue to play Australian Football matches

and or return to training following a head knock and or concussion, including whether to seek and follow medical or other advice in relation to those matters.

54. It does not admit paragraph 54 and refers to and repeats paragraph 53 above.

55. It does not admit paragraph 55.

56. It denies paragraph 56.

57. It denies paragraph 57.

58. It denies paragraph 58.

59. It denies paragraph 59.

60. It denies paragraph 60.

61. It denies paragraph 61.

PART VII – LOSS AND DAMAGE

62. It denies paragraph 62.

PART VIII – COMMON QUESTIONS OF LAW OR FACT

63. As to paragraph 63, insofar as the allegations relate to it, it:

(a) does not admit the allegations;

(b) says that the matters alleged in the Statement of Claim to be common or identical as between group members, including as to vulnerability (paragraph 21), reliance (paragraph 22), reasonable precautions (paragraph 40), employment (paragraph 42), and loss and damage (paragraph 62) are not common;

(c) says further that the period alleged spans more than 38 years and the group members comprise players employed by different Clubs at different times during the period, who were allegedly injured in different circumstances including as to any knowledge, education, advice and treatment available or provided; and

(d) it otherwise does not plead to it as it contains no allegations against it.

64. It denies that the Plaintiff and group members are entitled to the relief sought.

65. Further and in the alternative, it says that the risk of the Plaintiff suffering from a concussion and/or head knocks during a match or training was a risk that was obvious to a reasonable person in the Plaintiff's position.

66. It says further that by reason of the risk pleaded in the preceding paragraph being a risk to which section 53 of the *Wrongs Act 1958* (Vic) applies, the Plaintiff is presumed by force of section 54(1) of the *Wrongs Act 1958* (Vic) to have been aware of the risk.

67. It says further that the Plaintiff freely and voluntarily, with awareness of the risk of suffering from a concussion and/or head knocks during a match or training impliedly agreed to incur that risk.

68. Further and in the alternative, it says that it is not liable in negligence for harm suffered by the Plaintiff as a result of the head knocks alleged in paragraphs 50 or 51 (which are not admitted) as any such harm resulted from the materialisation of an inherent risk within the meaning of section 55 of the *Wrongs Act 1958* (Vic).

69. It reserves the right to plead contributory negligence as against individual group members, including the Plaintiff, depending on the differing circumstances applicable to each group member.

70. It says further that the Plaintiff is not entitled to recover damages for non-economic loss in this proceeding by reason of section 28LE of the Wrongs Act.

71. It otherwise relies upon the provisions of Parts VA, VB, VBA and X of the *Wrongs Act 1958* (Vic) in answer to the Plaintiff's claim.

72. It says further that the Plaintiff's alleged causes of action in negligence and breach of statutory duty are barred by the operation of s 27D of the *Limitation of Actions Act 1958* (Vic).

Other matters pleaded in relation to Group Member claims

73. Further, it states that the Group Members' causes of action, including claims for damages brought by the executors or administrators of the estates of deceased persons, will be subject to, and it relies upon, the limitation periods prescribed by state and territory legislation including:

    (a) *Limitation of Actions Act 1969* (NSW);

    (b) *Limitation of Actions Act 1974* (Qld);

    (c) *Limitation of Actions Act 1958* (Vic);

    (d) *Limitation Act 2005* (WA);

    (e) *Limitation Act 1935* (WA);

    (f) *Limitation Act 1985* (ACT);

    (g) *Limitation Act 1974* (TAS);

    (h) *Limitation of Actions Act 1936* (SA);

(i) *Limitation Act 1981* (NT); and

(j) *Fatal Accidents Act 1959* (WA).

74. Further, the Group Members' causes of action and claims for damages and compensation, including claims for damages brought by the executors or administrators of the estates of deceased persons, must be determined in accordance with the applicable laws of a state or territory:

(a) *Civil Liability Act 2002 (NSW);*

(b) Section 2(2) of the *Law Reform (Miscellaneous Provisions) Act 1944 (NSW);*

(c) *Civil Liability Act 2003 (Qld);*

(d) Section 66(2)(d) of the *Succession Act 1981 (Qld);*

(e) *Wrongs Act 1958 (Vic);*

(f) Section 29(2)(c) of the *Administration and Probate Act 1958 (Vic);*

(g) *Civil Liability Act 2002 (WA);*

(h) Section 4(2)(c) of the *Law Reform (Miscellaneous Provisions) Act 1941 (WA);*

(i) *Civil Law (Wrongs) Act 2002 (ACT);*

(j) *Civil Liability Act 2002 (Tas);*

(k) Section 27(3)(c) of the *Administration and Probate Act 1935 (Tas);*

(l) *Civil Liability Act 1936 (SA);*

(m) Section 3(1)(d) of the *Survival of Causes of Action Act 1940 (SA);*

(n) *Personal Injuries (Liability and Damages) Act 2003 (NT);*

(o) Section 6(1)(c) of the *Law Reform (Miscellaneous Provision) Act 1956 (NT).*

75. Further, for those group members who suffered injury between 4pm on 31 August 1985 and 22 December 1997 arising out of, or in the course of, their employment with one or more of the Clubs who lodged a claim or commenced a proceeding before 1 June 2006, then such group members cannot recover any damages or bring any proceedings against it by reason of ss 134A(1), 135A, 135B and 135AC of the *Accident Compensation Act 1985* (Vic), except as permitted by and in accordance with that Act. To the extent the present proceeding is brought on behalf of any such group member, such group member has no cause of action against it absent compliance with the Act.

DATED 12 February 2024

P D Crutchfield

B M Ihle

M J Hooper

R J Singleton

DLA Piper

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Solicitors for the Defendant