



HIGH COURT OF AUSTRALIA

Public Information Officer

30 September, 2003

LIDO RUSSO AND ZUCCHINI PTY LTD v JOHN DOMINIC AIELLO

The High Court of Australia today dismissed an appeal by a man who failed to comply with the statutory time limit for giving notice of personal injury insurance claim after a motor vehicle accident.

In January 1997, Mr Russo, then 21, was a passenger in a car driven by Mr Aiello who, Mr Russo alleged, negligently failed to negotiate a sharp bend on a road in Terrey Hills, Sydney, resulting in his car colliding with a rock face. Mr Russo sought damages for injuries, lost earnings and medical expenses. He was the co-owner of Zucchini, which traded as the Red Zucchini Bar. He spent the second half of 1997 in Italy where his condition improved but his condition later deteriorated back in Australia. He had headaches, dizziness, shoulder and back pain and was left with a permanent neck injury.

Mr Russo initially saw a solicitor 10 days after the accident and another law firm in October 1998 but did not lodge a personal injury claim form with Mr Aiello's insurer until March 1999, despite a six-month time limit under New South Wales' Motor Accidents Act. The first solicitor had informed Mr Russo of the time limit and handed him a claim form and later wrote to check it had been submitted.

The Act allowed extensions if a claimant had a full and satisfactory explanation for the delay.

NSW District Court Judge Ian Dodd dismissed Mr Russo's proceedings, holding that his explanation for the 10-month period between his return to Australia and consulting new solicitors could not be regarded as full. The Court of Appeal, by majority, dismissed Mr Russo's appeal.

The High Court, by a 4-1 majority, dismissed his further appeal.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*