

Editorial

Welcome to the first Issue of the Update for 1995. Once again we are excited to present articles which are on the cutting edge of personal injury and public interest law issues. I would like to encourage those members who have not yet submitted an article to the Update to think about doing so for one of the upcoming issues, APRIL, JUNE, AUGUST, OCTOBER & DECEMBER. The deadline for the APRIL Issue is Friday 24th March. Please call Anne Purcell on (02) 262 6960 to discuss word length and type specifications.

In the last newsletter we included a questionnaire on Costs and Disbursements, and we would like to thank you for the great response we had. You will find a draft submission incorporating the results of the survey attached to this Issue of the Update. If you have comments please fax them to The Editor on (02) 261 3318, submissions close on the 17th March, 1994 so all comments must be received by Monday 13th March, 1994.

We would also like to encourage you to attend a number of seminars that are being held over the next few months. Queensland have regular monthly litigation at Sunrise meetings, NSW will be having a seminar on medical records and both SA and Victoria are planning seminars in the next few months. If you would like further information or have a suggestion for a seminar in your state or territory please call Anne Purcell on (02) 262 6960 and look out for regular notices.

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Law on Damages For Nervous Shock Moves Ahead

Roland Everingham, NSW

APQ v. Commonwealth Serum Laboratories Limited and Commonwealth of Australia, Supreme Court of Victoria, Harper J, 2 February 1995

Plaintiff allegedly suffering psychiatric illness on being told that pharmaceutical product may cause serious disease as a result of negligence of manufacturer - Was duty of care owed - Proximity.

As a result of a decision in Victoria, the law on nervous shock appears (subject to appeal) likely to be undergoing significant evolution.

The case concerned a plaintiff who, between 1980 and 1984, was treated with human pituitary gonadotrophins ("HPG"). The drug was manufactured by the Australian Serum Laboratories from human pituitary glands.

The statement of claim alleges that the defendants knew or ought to have known that the plaintiff was at risk of contracting Creutzfeldt-Jacob Disease ("CJD"). CJD is a progressive disease of middle life, with dementia, peripheral muscular wasting and degeneration of the pyramidal and extrapyramidal systems, giving spasticity and tremors and other involuntary movements. The plaintiff alleged that the disease is "terminal".

The plaintiff has not alleged that she has contracted CJD. Rather, on being informed that she might contract CJD in the future, she suffered shock. It is alleged that as a consequence of the defendants' negligence, the plaintiff suffers from severe stress syndrome, severe psychiatric reaction, depression, anxiety and shock.

The defendants issued a summons seeking judgment on the grounds that the statement of claim did not disclose a cause of action, was vexatious or was an abuse of process of the court, alternatively, a stay of proceedings was sought.

The basis of the defendants' summons was that the