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Dismissal of Dormant Actions

Bill Madden, Blessington Judd, Sydney

An important amendment to NSW District Court Act 1973 - Rule has been gazetted and took effect on and from 6 December 1996.

The amendment, among other things, provides for an additional rule Part 12 Rule 4C relating to the dismissal of dormant actions commenced before January 1997, and significant changes have been made to Part 25 - Evidence Otherwise than at the Trial.

Copies of the Rule are available from Cheryle O'Loan at the Law Society of NSW, phone (02) 9926 0213.

APLA NSW Report

Catherine Henry, MacMahon Drake Balding, Sydney

In the prevailing politico-economic environment of economic rationalism, there are constant threats of erosion to the rights of workers and consumers. In NSW in 1996, we saw this in the area of workers compensation.

In 1997, the scope of the health professional's liability to the victim of his/her negligence is at risk of being substantially narrowed if the irrational scaremongering of the medical profession is accepted by the state Government. It is fortunate that the Review of Legal Liability of Medical Practitioners, which is currently under way in NSW, is operating within the context of a *fault-based* system (unlike its Federal counterpart – the Tito Review). Notwithstanding, it is crucial that the Government gets a strong message from APLA that the capping of future care and future economic loss claims is completely unacceptable. Details of APLA's response to this Review and the work of the Medical Negligence Special Interest Group in NSW is detailed elsewhere in this Update.

The battle to keep intact the common law regime is also exemplified by the proposal to transfer all personal injury actions from the Supreme to the District Court, again a move that is said to be justified on grounds of cost cutting within the portfolio of the Attorney-General's Department. APLA wrote to the Attorney prior to the Christmas break and will be lobbying the Government on the issue in conjunction with other groups who have an interest in seeing the Supreme Court continue to hear and determine major claims involving the seriously injured.

NSW looks likely to break away from the joint Commonwealth/State legal aid agreement. In this state, legal aid has been unavailable for civil proceedings since January 1993. Whilst we deplore the Federal Government's decision to slash more than \$120 million from legal aid spending over the next three years, the shakeup of legal aid funding will provide the legal profession with the opportunity to completely renegotiate the distribution of the legal aid dollar. This is particularly timely given the recent suspension of the NSW Law Foundation's disbursement funding scheme.

There is clearly a lot on the agenda politically for NSW this year. We begin the year with more than double the state membership of the same time last year and a number of new faces with significant

personal injury law backgrounds elected to our State Committee. With a new Committee structure and division of responsibility within it for various portfolios, I hope that we can achieve great things in 1997. The NSW Committee comprises:

President:

Catherine Henry, MacMahon Drake Balding

Secretary:

Helen Tsikrikas, Kaplin Reeves Tsikrikas

Treasurer:

Jay Anderson, Garfield Barwick Chambers

Newsletter Editor/Communications:

Bill Madden, Blessington Judd

Seminar Coordinator/National Conf Rep:

Diana Farah, Carroll & O'Dea

Policy Officer: Terry Stern, Stern & Tanner

Funding & Sponsorship:

Tom Goudkamp, Stacks

Public Relations & Liaison Officer:

Vera Culkoff, Cashman & Partners

Committee:

Martin Bell, Martin Bell & Co

Thady Blundell, Turner Freeman

Brian Donovan QC, Frederick Jordan Chambers

Andrew Fegent, Andrew Fegent & Co

Elizabeth Wood, R L Whyburn & Associates

Seminar-wise, we kicked off the year in NSW with a specialised topic in the area of motor accidents claims. Dr Andrew Morrison SC, one of the authors of the Law Book Company *Personal Injury Law Manual* gave a thorough account of the current position regarding structured settlements which is particularly timely given that this is a subject being given close attention currently in the context of the Medical Liability Review. David Hooke, a Sydney common law barrister, gave an update on damages. Diana Farah's piece elsewhere in this Update outlines the Seminars which are planned for the rest of the year. Members are reminded that papers are available by ringing the APLA office in Sydney.

Catherine Henry is the NSW President of APLA.

NSW Litigation at Sunrise Seminars 1997

Diana Farah, Carroll & O'Dea, Sydney

The following program of events has been compiled for APLA members in NSW:

Thursday 13 February: Motor Accident Claims

Thursday 13 March: Workers Compensation

Thursday 10 April: Fiona Tito

Thursday 12 June: Road Design & Crashworthiness

Thursday 7 August: Medical Negligence

Thursday 4 September: Computer Resources

Thursday 2 October: Environmental Health

Wednesday 3 December: AGM and Drinks

Every effort will be made to keep to these dates and topics but some changes may occur. All seminars will be held at the Dining Room of the Law Society in Phillip Street. NSW members will receive flyers before each event. The breakfast functions start with breakfast at 7.15am and conclude at 8.45am. The AGM will be in the evening of 3 December.

I would be interested to receive any suggestions of speakers or topics. Please fax your suggestions to me on (02) 9221 1117.

APLA Victoria Report

Angela Sdrinis, Ryan Carlisle Thomas, Melbourne

The New Year has started with the Victorian branch in fighting mood. As our interstate colleagues probably know the Victorian government has been consistently downgrading plaintiff's rights and attacking not only common law rights but no fault compensation schemes including crimes' compensation, WorkCover and our transport accident scheme.

APLA published a detailed newsletter on the amending Act and held a forum which was very well attended by APLA members. Following that forum a committee was established and it was decided a fighting fund would be set up to launch a campaign to put pressure on the Government to protect victim's rights.

We are also having a membership drive amongst our barristers. Eminent QC, Mr Jack Rush, who is a vocal supporter of APLA, will be writing to every barrister who has a predominantly plaintiff's practice urging them to join up.

A programme of seminars for the year is also well under way. Details will be published in the next Update. We will also be holding our AGM in late March and all APLA members are urged to come and indeed join one of our many committees.

Angela Sdrinis is partner at Ryan Carlisle Thomas, Melbourne and National Councillor and Victorian President of APLA.