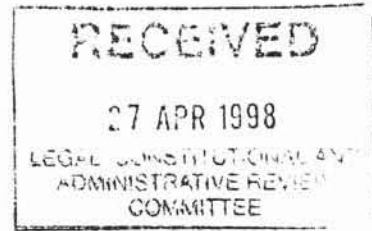




Australian
Plaintiff Lawyers
Association

Submission No 67.



Corr In.
Spec 8

David Thannhauser
LCARC
Legislative Assembly
Parliament House
George St.
BRISBANE QLD 4000

23 April, 1998

BY FACSIMILIE : 07 3406 7691

Dear David,

Re: "Should Queensland Adopt A Bill of Right?" (Issues Paper No.3)

I refer to our telephone conversation of 15 April, 1998 and confirm that I wish to make the following submission on behalf of the Australian Plaintiff Lawyers Association in support of the adoption of a Bill of Rights.

Whilst we support the prevailing philosophy within governments of seeking increased efficiency in the interests of reducing the cost of governing, we are strongly of the opinion that a Bill of Rights is necessary to provide a counterbalancing guarantee of citizens rights. Around Australia we observe the gradual and haphazard reduction of rights in the interests of governmental efficiency, but with no document providing guidance to law makers, the judiciary and citizens about the extent to which this process is acceptable.

The existence of a Bill of Rights would also provide citizens with peace of mind that their rights will not be diminished during our constitutional evolution toward a republic.

In our view, a suitable model for discussion purposes would be to adapt the recently passed UK Bill of Rights, but with our model adopting ICCPR instead of the ECHR included in the UK Act. We also support the rights described in the IESCR, and would welcome debate on the need for rights such as these in Australia.

The main right we support which is not expressly included in the EARC's draft is a right of access to civil justice, which could be addressed by a more general expression of the right to trial by jury.

APLA nominees stood for election for the Constitutional Convention in five states under the banner "Bill of Rights for Australia". Our election results were as follows:

- Richard Carew (QLD) was excluded 90th of 116 unsuccessful candidates with 2340 first preference votes
- Cathy Henry (NSW) was excluded 118th of 154 unsuccessful candidates, with 3754 first preference votes.
- Geoff Coates (VIC) was excluded 98th of 142 unsuccessful candidates, with 1808 first preference votes.
- Jay Weatherill (SA) was excluded 19th of 28 unsuccessful candidates, with 4239 first preference votes
- David Clyne (WA) received 1212 first preference votes.

Although none of our candidates were elected, the Campaign was a moderate success, with several other elected delegates raising the Bill of Rights issue at the Convention, and a loose promise being made to convene working groups to discuss the issue at a later stage.

We are now establishing contact with the elected delegates who supported the introduction of a Bill of Rights, and considering the feasibility of convening the promised working groups of the Convention, as it appears no other group has any concrete plans to do so. We would welcome LCARC input into this program, as your committee appears to be the only government body considering this issue of vital importance in an era of constitutional reform.

In support of our submission, and to avoid repetition, I enclose the following documents which contain the detail of our position:

1. "The case for an Australian Bill of Rights" by C. Henry, published in our journal, Plaintiff (February 1998).
2. APLA Membership Brochure detailing the Association's objectives.

APLA is an association of lawyers and other professionals devoted to the protection and enhancement of the rights of those injured at the hands of wrongdoers and dedicated to injury prevention through safer products, workplaces and other environments. We aim to redress the imbalance between the ample resources available to wrongdoers and their insurers on one hand and those available to the public on the other hand. APLA also supports public interest litigation.

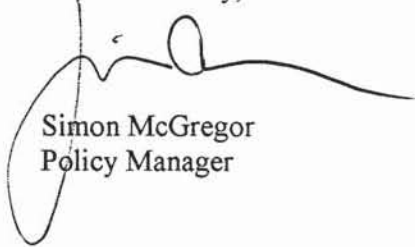
APLA came into existence in 1993 and has since been invited to participate in all major discussions concerning the rights of the injured.

It is a national association with branches in all Australian states and territories, and over one thousand members. APLA is the fastest growing legal association in Australia, and has links with the Association of Trial Lawyers of America (ATLA), the Association of Personal Injury Lawyers (APIL) in the UK, and the Pan European Organisation of Personal Injury Lawyers (PEOPIL).

We wish to be consulted further on this issue, and will make more detailed submissions if required.

Thank you for considering our comments,

Yours faithfully,



Simon McGregor
Policy Manager

The case for an Australian Bill of Rights

Catherine Henry & Francesca Dominello, Sydney



Catherine Henry

To be, or not to be a republic: that is the question for the Constitutional Convention to be held in Canberra from 2 - 13 February 1998. But delegates also have the opportunity to recommend that an Australian Bill of Rights be incorporated within our Constitution. The primary focus of the lead-up to the Convention revolved around whether or not to move towards the appointment of an Australian head of state, with debate changing direction towards the close of polling to the appropriate way in which to define, clarify and limit the powers of the head of state.

The majority of elected candidates clearly see the need for symbolic change and also that it is important for an independent Australia to state simply and unambiguously our national status in constitutional terms.

Former NSW Premier Neville Wran, who describes himself as a republican "and proud of it" and is one of the elected candidates on the Australian Republican Movement ticket, urged Australians prior to the close of voting to "take the final, historic march to full independence".

In December, voters began this march but after the clearing house of the convention, the next step will probably be a plebiscite or a referendum with detailed discussions about the numerous models of republic.

There are major differences between the various arms of the republican movement and these were apparent at a seminar convened by the Public Interest Advocacy Centre (PIAC) at Parliament House on 10 November 1997. Malcolm Turnbull, the head of the mainstream Australian Republican Movement (ARM), speaking at the seminar, said that the ARM had not widened the debate beyond the issue of an Australian Head of State because "if you throw more causes on the republican cart, the

prospect is that the axle will break and you will end up getting nothing".

By contrast, Pat O'Shane, who heads the more progressive *A Just Republic* ticket, accused Turnbull of setting his sights too low, arguing that Australians had "abundant common sense and understood the sophistication of the arguments for a 'democratic constitution', one which incorporates a Bill of Rights".

The strongly pro-republican voting in December's ballot for Convention delegates, including the election of many delegates who do not adopt the minimalist position of the ARM, seems to indicate a readiness for a republic and a once-in-a-century Constitutional stocktake.

The election results show there is a growing public awareness of the issues involved, such as the need to develop the Constitution as a blueprint for how we organise ourselves as a society and the perils of stampeding towards a Republic by the year 2000. Although Ian Sinclair, the Chairman of the Constitutional Convention, said after the Electoral Commission had announced the final list of elected delegates on 24 December, that it is "more than likely" delegates will recommend a republic, it now seems clear that the issues are broader than was first proposed. A simplistic switch of our Head of State, then, would not work as the retention of the monarchy is no longer the exclusive issue.

Are any rights guaranteed in Australia?

Unlike the United States Constitution which covers individuals' rights in Amendments One to Ten and Fourteen, the Australian Constitution does not attempt to guarantee individual rights and liberties. The Constitution provides some express rights, however, such as (s51(xxiiiA)) which prevents the

Commonwealth from using its power over medical services in any form which resembles civil conscription; (s51(xxvi)) the acquisition of property on just terms; (s80) the right to a trial by jury; (s116) the right to freedom of religion; and (s117) freedom from discrimination on the basis of State of residence.

In addition to those express rights, the High Court of this decade has shown a preparedness to assert that it has the ability to identify rights to be implied from the Constitution. We witnessed the beginnings of this trend during Justice Murphy's period on the bench although he was, at that time, isolated from his colleagues who did not endorse his approach. Since then, such cases as *Mabo*¹ (recognising native title), *Dietrich*² (requiring legal representation as an element of a fair trial) and *Theophanous*³ (using freedom of political expression to limit defamation actions) highlight the High Court's judicial activism in the area of human rights. And increasingly s51(xxix) (the external affairs power) has been used to enact legislation giving effect within Australia to international conventions and treaties.

The most notable of these would be the 1966 Convention on the Elimination of All Forms of Racial Discrimination (which provided the basis for the *Racial Discrimination Act 1975*) and the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (which provided the basis for the *Sex Discrimination Act 1984*). These statutes have provided the framework within which the rights of women and of racial groups are now recognised and protected in Australia.

More generally, an awareness of Australia's obligations as a signatory of the International Covenant on Civil and Political Rights is maintained through the

administrative and advisory functions of the Human Rights and Equal Opportunity Commission, though these functions stop short of direct enforcement of human rights obligations.

Are these guarantees sufficient?

Of the express rights guaranteed in the Constitution, s117 has developed most effectively in eliminating discrimination against out-of-state residents, though only since 1989.¹²

The other express rights have been applied only sporadically, and then in a very limited way. Section 80 has been read as requiring that there be a jury trial only when Parliament decides that there should be.¹³

Section 116 has rarely been tested. When, for example, in 1943 the Jehovah's Witnesses were outlawed and the propagation of their doctrines forbidden, it was held that this was not an interference with freedom of religion.¹⁴

Further, s41 of the Constitution, which might be read as guaranteeing a right to vote, has been held to have no such effect.¹⁵

The High Court has done little to promote the express rights, and where it has found implied rights in the Constitution, these have been met with considerable criticism from the executive government. Politicians, past and present, continue to publicly denude the Court for "acting like an unelected and unauthorised third chamber in the Parliament."¹⁶

The suggestion that it is the present Federal government's intention to appoint political conservatives to the High Court,¹⁷ who are more likely to adopt a narrow interpretation of the role to be played by the Court in determining cases involving wide social, political and economic questions and adhere to a strict view of precedent and separation of powers, may signal a change of direction. However, even before the most recent appointments, the dissension within the Court over any extensive resort to constitutional implications had been manifest. In 1997, after much uncertainty, the Court finally united in reaffirming the implied freedom of political discussion as a limit to defamation actions,¹⁸ but three weeks later was unable to give majority support to any one of a wide range of arguments that the tak-

ing of "stolen" Aboriginal children had been unconstitutional.¹⁹

In any event, the criticism of a judicial strategy resting only on implications is not without substance. The criteria of implication remain uncertain and unpredictable, and can never be systematic or comprehensive.

The Court was unable to give majority support to any one of a wide range of arguments that the taking of stolen Aboriginal children had been unconstitutional.

This is not to say that the protection of rights should remain solely in the hands of the Parliament. Through the use of the external affairs power the Australian Parliament has implemented rights-based legislation. But this method has severe limitations, primarily because Parliaments and governments have unlimited power to decide which international obligations should be taken seriously and which should not. While the immediate decision in the *Teoh* case²⁰ drew attention to the need for greater awareness of Australia's obligations under the 1989 Convention on the Rights of the Child, the ensuing controversy highlighted the number of other instances in which Australia has signed or ratified international conventions without any meaningful acceptance of the obligations involved. At the same time, the rejection by successive governments of the Court's approach in *Teoh* showed the determination of politicians from both the established political parties that the choice of which obligations should be given effect to was to be a matter for government and Parliament alone.

The recent interaction between the two arms of government clearly indicates that whilst judge-made law, the common law has shown at times a great capacity to adapt to social change, we cannot rely upon it exclusively as the means of protection of individual rights. Yet it also indicates that

self-regulation by government cannot be relied upon, either. Though it may be the will of the people that a particular party should govern, the policies pursued by any party in government can often claim no such mandate. And in relation to rights, the most important objective is usually to ensure that those not in a majority are still protected within the community.

Advantages of a Bill of Rights

The inadequacy of the existing guarantees, whether express, implied or internationalised, and of methods for their enforcement, shows that the Constitution itself does not have sufficient internal mechanisms for the protection of human rights. The fabric of human rights in Australia resembles more of a patchwork quilt, frayed at the edges, than a secure and comprehensive regime of rights and freedoms.

Although no one mechanism can solve all human rights problems, the introduction of a Bill of Rights would be an improvement. The standard argument against a Bill of Rights has been that it would function to usurp the power of Parliament in favour of the High Court. So far both arms of government, in one way or another, have fallen short of full protection for our rights. An argument in favour of a Bill of Rights would be that while it would empower the High Court, it would also direct and control it. The Bill of Rights would serve as a directive to the High Court as to which rights were to be enforced, and could also give directives as to how conflicts were to be resolved. To locate such directives in the Constitution would not usurp anybody's rights. The directive would be given by the Australian people through a referendum.

In 1988 Sir Anthony Mason, then the Chief Justice of the High Court, succinctly summarised the primary advantages of a Bill of Rights, as customarily advanced,²¹ as follows:

- It deters Parliament from abrogating the rule of law, thereby presenting a constitutional obstacle to the use of parliamentary power as a means of a totalitarian system;
- It ensures that the power of the majority in Parliament cannot be used to override the rights of minorities and individuals;

- It offers more secure protection of individual and minority rights from the exercise of power by institutions and pressure groups operating through government machinery;
- It offers principled and reasoned decision-making on fundamental issues;
- It reinforces the legal foundations of society, thereby enhancing the role of law in society;
- It has a major educative role in promoting greater awareness of, and respect for, human rights.²²

Just as the momentum for Australia's conversion from constitutional monarchy to republic has gathered pace in the last decade, there is also a wider realisation in contemporary Australian society of the value of a Bill of Rights.²¹

The Constitution itself does not have sufficient internal mechanisms for the protection of human rights.

Historically, those who oppose have argued that a Bill of Rights would achieve no useful purpose in a country a free society in which the citizen is said to enjoy basic democratic and individual rights:²⁴ an application of the old adage, "if it ain't broke, don't fix it".²⁵

This somewhat simplistic analysis ignores the fact that a primary purpose of a Bill of Rights is to provide a safety valve whereby those who wield power within a democratic society are subjected to a code of conduct in accordance with the rule of law which operates to prevent them exercising power in such a way as would infringe the basic rights of that society's citizens. Thus, a Bill of Rights is a powerful tool not only in keeping a society tolerant and democratic but as an essential adjunct to the institutions of parliamentary democracy and the common law in the way that they serve to protect the rights of the most vulnerable groups of society. Overseas experience suggests that the exist-

ence of a Bill of Rights can hold a significant place in the national psyche²⁶ and those who have either worked in or visited the United States, in particular, give accounts of local residents being unable to conceive that a free and democratic country might lack an enforceable charter of constitutional rights.²⁷

Which rights?

Even in a democratic nation, governments exercising their parliamentary majority are easily able to remove hard-fought-for rights and entitlements. Witness, for example, the moves towards the repeal of unfair dismissal legislation, the recent removal of common law entitlements for work injuries in Victoria and the introduction of unfair workplace agreements. Increasingly, governments, with the encouragement and backing of insurers and business groups, have started to do this with balance sheet bottom lines being promoted at the expense of the individual.

The inclusion of such rights as the right to work, the right to an adequate standard of living, the right to health and even the right to rest and leisure (generally characterised as economic, social and cultural rights) in a formal charter of rights is somewhat problematic. In countries where Bills of Rights have recently been introduced [supra], there has been sustained and informed debate as to the appropriateness of including economic and social rights.²⁸

Conventional human rights issues such as freedom of speech and from discrimination, vilification, torture and slavery are traditionally the stuff of Bills of Rights. In Australia, the debate as to which rights would be appropriately included is markedly less sophisticated but we can certainly draw on the experience of comparable countries to ensure that proper consideration is given to the inclusion of a broad range of rights and protected freedoms necessary to ensure a just and equitable society.

Conclusion

Clearly, the scope and content of the Constitution concern all Australians. In the first instance, however, it is up to those who will participate in the Convention: laypeople, including lawyers, and politicians who, because of their knowledge

and expertise in particular relevant areas have been entrusted with this responsibility, to argue the case for substantial constitutional reform. It is important that within the context of the people's convention, the legal profession stand behind the Convention participants and seize this unprecedented opportunity to overhaul the Constitution and draft an appropriately considered Australian Bill of Rights. Unless this is done, it is unlikely that Australians in future generations will be able to enjoy an independent, well-ordered and just society. ■

Catherine Henry is the NSW President of APLA, a Partner with Craddock Murray & Neumann Solicitors in Sydney and was one of five candidates put forward by APLA around the country on a Bill of Rights for Australia ticket during the election of candidates for the February Constitutional Convention. **Phone** 02 9283 4755.

Francesca Dominello is a recent law graduate from Macquarie University who helped with the research for the 1st and 2nd editions of *Australian Constitutional Law & Theory*, edited by AR Blackshields & George Williams, Federation Press, 1998.

References:

- ¹ Sir Zelman Cowen, Inaugural Melbourne Lecture; Edited text reproduced in *The Australian*, 24 September 1997
- ² "It's time for change, says Balmain boy Wran: a republican and proud of it," *Sydney Morning Herald*, 20 November 1997, p 7
- ³ *Ibid*
- ⁴ "O'Shane accuses Turnbull of setting his sights too low", *Sydney Morning Herald*, 11 November 1997
- ⁵ *Ibid*
- ⁶ Pat O'Shane speaking on Radio National, 3 January 1998
- ⁷ "Sinclair tips republic", *The Australian*, 24 December 1997
- ⁸ *Mabo v Queensland (No 2)* (1992) 175 CLR 1
- ⁹ *Dietrich v R* (1992) 177 CLR 292
- ¹⁰ *Theophanous v Herald & Weekly Times Ltd* (1994) 182 CLR 104
- ¹¹ As at 31 May 1997 UNESCO reported that of 52 international human rights instruments, Australia was a party to all but 12. See also Hilary Charlesworth, Human Rights in Harry Reicher (ed), *Australian International Law: Cases and Materials*, LBC, 1995, pp 629-30.
- ¹² *Street v Queensland Bar Association* (1989) 168 CLR 461; see also *Goryl v Greyhound Australia Pty Ltd* (1994) 179 CLR 463.

- ¹⁵ See *Kingswell v R* (1985) 159 CLR 264
- ¹⁶ *Adelaide Company of Jehovah's Witnesses Inc v Commonwealth* (1943) 67 CLR 116
- ¹⁷ *R v Pearson; Ex parte Sipka* (1983) 152 CLR 254
- ¹⁸ Former Liberal Prime Minister Sir John Gorton who attacked the High Court and the Senate in a lecture at Old Parliament House on 12 November 1997, the former particularly for its finding in *Mabo*; *Sydney Morning Herald*, 11 November 1997; see also Howard rejects High Court's lawmaker role in *The Australian*, 25 February 1997
- ¹⁹ See "Judges now picked for their political bias, says Kirby", *Sydney Morning Herald*, 6 January 1998
- ²⁰ *Lange v Australian Broadcasting Corporation* (1997) 145 ALR 96
- ²¹ *Kruger v Commonwealth* (1997) 146 ALR 126
- ²² *Minister for Immigration and Ethnic Affairs v Teoh* (1995) 183 CLR 273
- See Murray Wilcox, "The North American

Experience: A Personal Reflection", in Philip Alston (ed), *Towards an Australian Bill of Rights*, Centre for International and Public Law, Human Rights and Equal Opportunity Commission, Canberra 1994, p 189

- ²³ The Hon Sir Anthony Mason, "A Bill of Rights for Australia", in *Australian Bar Review*, 1988, p 88
- ²⁴ This was a central finding of the Australian Rights Project survey conducted by Brian Galligan and Ian McAllister and which is reported in *Citizen and Elite Attitudes Towards an Australian Bill of Rights*, in Brian Galligan and Charles Sampford (eds), *Rethinking Human Rights*, The Federation Press, Sydney, 1997, pp 144-153
- ²⁵ Sir Anthony Mason, op cit. p 79
- ²⁶ This is often expressed another way by means of an oft quoted statement of Sir Harry Gibbs: "...if society is tolerant and rational, it does not need a Bill of Rights. If it is not, no Bill of Rights will make it so". This statement has been condemned as a

neat aphorism by the Constitutional Commission and the Senate Standing Committee on Constitutional and Legal Affairs, who considered it insufficient to deny the desirability of a Bill of Rights: see Brian Burdekin, "The Impact of a Bill of Rights on those who Need it Most" in Alston (ed), op cit. pp 148-149

- ²⁷ The pride of United States governments in their Bill of Rights has been one of the primary reasons the United States has long resisted becoming party to United Nations human rights instruments even while urging other nations to comply with those instruments: see Brian Burdekin in Alston (ed), op cit. pp 148-149
- ²⁸ This was the experience of His Honour Justice Wilcox of the Federal Court during his time as Visiting Fellow at Harvard Law School in 1991 talking to Americans about the Bill of Rights: see Wilcox, op cit., p 191
- ²⁹ See the account given by Philip Alston in Alston, op cit. pp 14-16

Costs orders in the NSW District Court

Zac Gabriel, Sydney

The writer recently encountered a problem concerning the application of Part 39A Rule 31 (4) of the District Court Rules relation to costs on re-hearing of a District Court Arbitration.

A brief summary is as follows:-

- 1 The plaintiff commenced proceedings following personal injuries arising out of a motor vehicle accident on 1 December 1995.
- 2 The matter was referred to arbitration and the Arbitrator made an award in the plaintiff's favour for approximately \$23,000 plus costs. The component of the award relating to non-economic loss was in the sum of \$16,000 representing 25% of a most extreme case. The Arbitrator awarded this following a deduction from 30% having regard to the plaintiff's age, who was at that time 82 years old.
- 3 Prior to the arbitration, the defendant had made an offer of approximately \$9,000 inclusive of costs and did not offer any sum in relation to non-economic loss.
- 4 The defendant applied for a re-hearing.
- 5 The plaintiff filed an offer of compromise of \$15,000 plus costs.
- 6 At the re-hearing, the Judge awarded the sum of \$2,500 for non-economic loss based on 15% of a most extreme case, after making an unspecified deduction for the plaintiff's age. The total verdict was in the sum of approximately \$11,000. The defendant asked for an order for costs on the basis that as a result of the verdict the defendant had substantially improved its position from the arbitrator's award.
- 7 The Judge ordered that the defendant pay the plaintiff's costs up to and including the arbitration. However, in relation to costs subsequent to the

arbitration each party was to pay its own costs. The Judge's reasoning was that based on Part 39A Rule 31 (4) and practice note 14 the defendant had substantially improved its position from the arbitrator's award.

Upon the writer's reading of practice note 14, the intention of the rule appears to be to impose a burden on the party who makes unnecessary applications for re-hearing.

The writer has since discussed this problem with other personal injury practitioners and has learned of other judicial interpretations of this rule which have adversely affected plaintiffs by ordering the plaintiff to pay all or some of the defendant's costs from the arbitration or that the plaintiff is not to recover party/party costs in circumstances similar to the facts set out above.

The impact of this is that the plaintiffs are being penalised by what may or may

WHAT IS APLA?

The Australian Plaintiff Lawyers Association (APLA) is probably the fastest growing, most dynamic and pro-active legal association in Australia. It is an association which offers a range of invaluable practical benefits to lawyers who act for plaintiffs. It has also developed an enviable reputation for its principled public stand on behalf of the injured, and for the success of its lobbying against the erosion of the common law in this country.



APLA is a national association. Its members act for plaintiffs in personal injury and public interest litigation. APLA's aim is to protect the rights of the injured. Its mission is to redress the imbalance between the ample resources available to wrongdoers and their insurers on the one hand and those available to the public on the other.

APLA is the only association in Australia which represents the special interests of lawyers who act predominantly for individuals rather than for corporations, institutions or governments. APLA members are aptly described as "lawyers for the people".

APLA is associated with the Association of Personal Injury Lawyers (APIL) in the UK, the Canadian Trial Lawyers Association (CTLA), and the Association of Trial Lawyers of America (ATLA).

WHY BELONG TO APLA?

APLA members benefit from a range of services which are of immense practical value in day-to-day practice. These services include the following.

Expert Database

APLA has developed a computer database containing details of over 300 experts in various fields each of whom has been recommended by other members. These experts are prepared to

provide opinions for use in litigation on behalf of the injured. With one telephone call (or email request) to APLA's central office, members can seek the name of and information about experts in both common and novel fields of litigation who can assist you proving liability and in assessing damages. If we are unable to provide you with the name of an APLA recommended expert in a field we will seek to locate a suitable expert.

Our Journal, *Plaintiff*

APLA publishes a bi-monthly national newsletter, *Plaintiff*. This is essential reading for lawyers and other professionals concerned with personal injury and public interest law. *Plaintiff* contains state-of-the-art material of practical relevance to those who act for the victims of negligence, and recent case notes dealing with substantive law and procedure.

APLA National Conference

APLA's annual National Conference is a landmark event on the Australian legal calendar. Our inaugural conference was widely acclaimed as the best personal injury conference ever, with some of the most exciting and practical topics and inspirational speakers assembled in many years.

Special Interest Groups

APLA members with special expertise in particular fields meet and exchange information as Special Interest Groups. These groups provide excellent opportunities for the education of lawyers in specific areas. Special interest groups established to date include:

- Medical negligence
- Tobacco litigation
- Breast implant litigation
- Chemical injuries litigation

Membership Directory

A national directory of APLA members is regularly published and is provided free to all APLA members. It includes a short description of each member's area of practice, qualifications and special interests. It facilitates the sharing of information and the identification of like-minded lawyers in other parts of the country. The directory is also a good source of referrals for members and an excellent reference for those seeking assistance from or wishing to refer to a practitioner interstate.

Professional Development Forums and Seminars

APLA has branches in nearly every state and territory in Australia. Branches organise regular seminars on topics which are of practical relevance to personal injury practice in that state. APLA members are entitled to discounted registration fees for seminars. Some seminars are restricted to members only.

APLA Web Site

An APLA web site has been developed to be of assistance to members and non-members. Our web site at www.apla.com provides information on membership, National Council and state committees, special interest groups, objectives, lobbying submissions, newsletters and member services. This leading edge facility allows plaintiff lawyers to stay up-to-date with current developments in their profession.

LOBBYING FOR PLAINTIFFS' RIGHTS

Unlike other legal associations in Australia, APLA is prepared publicly to say and do whatever is reasonably necessary to protect the rights of the injured. APLA is able to do this as it single-mindedly represents only its constituency. APLA has made and will continue to make submissions and representations on behalf of the injured and their lawyers to state and federal governments. Assaults on the right to sue and proposals for the capping of damages, and the erosion of the common law will continue to be fought against by APLA.

WHO IS ELIGIBLE TO JOIN APLA?

Lawyers who act predominantly for the injured and barristers who are subject to the operation of the "cab rank" rule (even if they do not act predominantly in that way) comprise the bulk of APLA's membership. Special membership fees apply to practitioners who have been admitted less than two years.

Associated professionals in the fields of health, science, engineering or occupational/public safety are also entitled to join as associate professional members.

Persons who are engaged in the teaching of courses of study relevant to the aims and objectives of the association or elected representatives of an Australian state or Federal Parliament or persons directly employed by such people or employees of government departments or state or community legal aid organisations are also entitled to join as associate academic, government, public sector or legal aid members.

Persons undertaking a course of study relevant to the aims and objectives of the association are entitled to join as an associate student member and persons employed as law clerks, articulated clerks or paralegals may also join as associates.

Lawyers admitted to practice in jurisdictions outside of Australia who predominantly practice for the injured are entitled to join as international members of APLA.

SHOW YOUR CLIENTS YOU CARE ABOUT THEIR RIGHTS

Join APLA today:

- an investment in your clients' future
- an investment in your ability to represent them!



MEMBERSHIP APPLICATION

Mr/Ms/Miss/Mrs/Dr/Professor Initials

Given Name

Family Name

Job Title
(eg QC, barrister, partner, associate, solicitor)

Organisation/Chambers:

Area of practice and specialisation for inclusion in Membership Directory

Date of Birth Date of Admission

Postal Address

City State Postcode

DX (Number and Location)

Phone Switch Phone Direct

Fax Mobile

Email

Web Site

I wish to pay by
 cheque payable to Australian Plaintiff Lawyers Association
 Visa MasterCard Bankcard American Express

Name of cardholder

Card No

Expiry Date

Signature

MEMBERSHIP APPLICATION

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 Visa MasterCard Bankcard American Express

Name of cardholder

Card No

Expiry Date

Signature

MEMBERSHIP APPLICATION

ORDINARY MEMBER

- I practice as a Solicitor or
 Barrister or
 Solicitor and Barrister

admitted to practice in an Australian State or Territory whose practice includes personal injury or public interest litigation in which I predominantly act for the plaintiff or applicant (subject in the case of barristers to any "cab rank" rules) and am acknowledged by the members of the association as such a practitioner.

- I have been admitted more than two years: \$250
 I have been admitted less than two years: \$150

ASSOCIATE MEMBER

I do not meet the criteria required of an ordinary member but am sympathetic to the objects of the association and am:

- a professional in the field of health, science, engineering or occupational or public safety: \$150
 engaged in the teaching of a course of study relevant to the aims and objectives of the association: \$150
 an elected representative of an Australian Parliament or a person directly employed by such a person: \$150
 an employee of a government department or a state or community legal aid organisation: \$150
 undertaking a course of study relevant to the aims and objectives of the association or am employed as a law clerk, articled clerk or para-legal clerk: \$50

INTERNATIONAL MEMBER

- I am a lawyer or attorney admitted to practice in a jurisdiction outside Australia and am sympathetic to the objects of the association and reside outside Australia: \$US100

DECLARATION

I wish to join APLA and declare that I am sympathetic to its aims. I undertake to disclose whether I am acting for a plaintiff or defendant on each and every occasion I access APLA information services. My practice in the field of personal injury and/or public interest law is predominantly for the injured. I do not have a permanent retainer from an insurer or other defendant.

Signed _____ Date / /

Please return with payment to APLA, GPO Box 2658,
SYDNEY NSW 2001 or DX 29552 Chatswood.

Applications with credit card payment may be faxed to (02) 9415 4210.

Enquiries can be made on (02) 9415 4233 or info@apla.com

MEMBERSHIP APPLICATION

ORDINARY MEMBER

- I practice as a Solicitor or
 Barrister or
 Solicitor and Barrister

admitted to practice in an Australian State or Territory whose practice includes personal injury or public interest litigation in which I predominantly act for the plaintiff or applicant (subject in the case of barristers to any "cab rank" rules) and am acknowledged by the members of the association as such a practitioner.

- I have been admitted more than two years: \$250
 I have been admitted less than two years: \$150

ASSOCIATE MEMBER

I do not meet the criteria required of an ordinary member but am sympathetic to the objects of the association and am:

- a professional in the field of health, science, engineering or occupational or public safety: \$150
 engaged in the teaching of a course of study relevant to the aims and objectives of the association: \$150
 an elected representative of an Australian Parliament or a person directly employed by such a person: \$150
 an employee of a government department or a state or community legal aid organisation: \$150
 undertaking a course of study relevant to the aims and objectives of the association or am employed as a law clerk, articled clerk or para-legal clerk: \$50

INTERNATIONAL MEMBER

- I am a lawyer or attorney admitted to practice in a jurisdiction outside Australia and am sympathetic to the objects of the association and reside outside Australia: \$US100

DECLARATION

I wish to join APLA and declare that I am sympathetic to its aims. I undertake to disclose whether I am acting for a plaintiff or defendant on each and every occasion I access APLA information services. My practice in the field of personal injury and/or public interest law is predominantly for the injured. I do not have a permanent retainer from an insurer or other defendant.

Signed _____ Date / /

Please return with payment to APLA, GPO Box 2658,
SYDNEY NSW 2001 or DX 29552 Chatswood.

Applications with credit card payment may be faxed to (02) 9415 4210.

Enquiries can be made on (02) 9415 4233 or info@apla.com

OBJECTIVES

The objectives of the Australian Plaintiff Lawyers Association are to promote the interest of plaintiffs and the public interest throughout Australia, by means which may include but are not limited to these interests by pursuing the following:

- to encourage co-operation between plaintiffs' lawyers in the pursuit of justice by all victims of negligent behaviour.
- to promote expeditious access to justice for those who suffer injury or loss as a result of the fault of others.
- to promote excellence in the provision of legal services to plaintiffs.
- to advocate the provision of a comprehensive public legal aid system in civil cases
- to preserve and expand the right or at least option, to trial by jury in civil cases
- to promote the obtaining of early hearing dates for plaintiffs in personal injury and public interest litigation
- to protect the common law system of adjudication of liability and quantum
- to preserve and promote the amount of adequate compensation for those who suffer injury or loss as a result of the fault of others
- to encourage innovation in personal injury practice
- to promote legal reforms which will further the interests of plaintiffs and the public
- to encourage informed debate in the community concerning issues of interest to plaintiffs and the public
- to promote workplace safety and safety in product manufacturing, marketing and use
- to facilitate the exchange of information between members
- to affiliate, collaborate and liaise with/to other entities with similar goals and to conduct seminars and other activities in such manner as the committee determines as may advance the interests of the association
- to promote the achievement of the aforesaid objectives at both a national and state level



Australian Plaintiff Lawyers Association

Australian Plaintiff Lawyers Association (APLA)

GPO Box 2658 Sydney NSW 2001

DX 29552 Chatswood

Ph (02) 9415 4233 Fax (02) 9415 4210

email info@apla.com website <http://www.apla.com>