

APLA Exchange

Loss of eyesight

We represent a lady who entered hospital for a cataract removal and corneal implant. The operation was carried out by an Ophthalmologist and was otherwise uncomplicated. However, whilst our client's eye was being hydrated with a saline solution immediately after the operation, the intraocular cannula rapidly projected from the syringe into the wound, resulting in a complete posterior vitreous detachment with haemorrhage on the posterior hyaloid face. Eventually the lady lost complete eyesight in that eye. We would appreciate hearing from any members who are aware of similar cases or the names of any ophthalmologists prepared to provide a medico-legal report.

Please contact **Craig Worsley** at Taylors Solicitors, PO Box 687, Mackay Qld 4740.

Phone (07) 4957 2944 **Fax** (07) 4957 2016 **Email** taylor.solicitors@wackado.com.au

Anaesthesiologist sought

We act for a young woman who had a bad result from a spinal block at caesarean section involving a puncture to the spinal canal. Does any member know of an anaesthesiologist who would be prepared to provide a liability report for a reasonable fee? Alternatively does anyone know of any medical papers that discuss this procedure and the risks involved?

Please contact **David Gleadall** at Harris Wheeler Solicitors, PO Box 500G,

Newcastle 2300. **Phone** (02) 4929 4621 **Fax** (02) 4926 5158

Highway Authority Immunity

For some time, Plaintiffs' lawyers seem to have assumed that the old highway immunity cases *Gorringe v Transport Commission* and *Buckle v Bayswater Road Board*, whilst not explicitly overturned, were fading from significance. We have recently encountered solicitors for local Councils vigorously renewing defences on non-feasance principles by relying upon several recent NSW Court of Appeal decisions, eg: *Threadgate v Tamworth City Council* (24.2.99) and *Ghantous v Hawkesbury City Council* (14.4.99). Are Plaintiffs' practitioners aware of any cases which tend to narrow the application of the highway immunity cases?

Please contact **Harry Gill** of Testart Robinson Solicitors on **phone** (03) 9890 3321 or

DX 12805 Box Hill or **Email** hgill@testartrobinson.com.au

Impotence - artificial implant failure

We are interested in hearing from any members who have clients that have had artificial implants to assist with impotence, that have gone wrong.

Please contact **Thomas Sherley** of Hanson's Lawyers on **phone** (02) 4226 4266 or

fax (02) 4228 0091 or (02) 4229 2625 **DX** 5152 Wollongong **PO Box** 356,

Wollongong East, 2520 NSW. **Email** hansonsh@hanson-lawyers.com.au

Artificiality of sub-contractor classification

I have a client who was basically coerced into signing a work agreement which stated that he acknowledged that he was a subcontractor and that he would indemnify his 'employer' in respect to any injuries or any other claims for damages. This 'coercion' was in the subtle form of that if he didn't sign the document then he wouldn't have a job. In any case, our client was flung from scaffolding after a defective weld sprung loose and catapulted him over the edge and he dropped approximately 6 metres onto concrete. His injuries are horrendous and he will never work again. My query is as to whether anybody is aware of any cases where these indemnity clauses can be nullified so as to allow the worker/subcontractor access to Workers' Compensation or Common Law rights or as to whether there can be access to the public liability insurer. Any thoughts would be much appreciated.

Please contact **Rick Byrne** of Rick Byrne and Associates, **phone** (07) 3806 0011,

fax (07) 3806 0055, **mobile** 0408 88 20 99, **email** rbyrne@powerup.com.au

Looksmart initial public offering

We have been instructed by an interested Australian investor in the float (initial public offering) of the Company Looksmart in the United States to investigate the possibility of an action against the Company in negligence or breach of contract in respect of that float. Our client on expressing interest via email in making a substantial investment in the Company float was placed on an interested investors database and was advised that he would be informed of any developments with respect to the initial public offering.

The Company announced the initial public offering on 20 August 1999 without notification to our client as an interested investor on the database set up by the Company and within days the initial share price increased four-fold. The Company's failure to notify of any developments as promised has resulted in a substantial loss to our client through the lost opportunity to invest in the Company on announcement of the initial public offering.

We would like to hear from any member who has received instructions from any other Australian investors who:

- lost the opportunity to invest and take advantage of the substantial share price rise of the stock Looksmart through the Company's failure to notify an interested investor on the database.
- the success of otherwise other litigation undertaken for loss of opportunity involving similar facts to those detailed here.

Please contact **Kim Todd** of Fleming Muntz Albury, **phone** (02) 6021 2222,

fax (02) 6041 1804.

APLA Exchange gives APLA members a chance to share information on special issues or products relevant to their litigation. If you would like to submit a request to **APLA Exchange**, contact **Joanne Choe** at APLA on **phone** 02 9698 1700