

Tort reform – time to talk to insurers

By Eva Scheerlinck

The last weekend in March saw the most successful NSW conference I have attended in a number of years. Although a great deal of its success can be attributed to the hard work of the committee and speakers, the conference's positive atmosphere had a lot to do with the unscripted messages of the keynote speaker.

Prior to giving his planned address on *The Metamorphosis of Slip and Fall*, The Hon Justice David Ipp, chair of the 2001 'Review of the Law of Negligence', spoke about NSW's *A Fair Go for Injured People* campaign.

The 'Review of the Law of Negligence' set off a chain of events, culminating in the current state of personal injury laws throughout Australia, which has had a particularly devastating impact in NSW.

While recognising that many people would not approve of the changes he recommended at the time of the review, Justice Ipp stood by his recommendations. However, he felt that the actual reforms had gone too far.

Four key groups had given submissions to his inquiry: doctors,

community groups and local councils, lawyers and insurers.

Doctors and community groups were no longer part of the equation, as they were now able to acquire affordable insurance. The only way that Justice Ipp said he could see change taking place to the tort reform system would be if lawyers and the insurance industry were to reach a compromise.

Australian Lawyers Alliance President, Simon Morrison, had earlier told the 100 plus delegates in his opening address that we would be meeting insurers to discuss a proposal for winding back some of the reforms.

The *A Fair Go For Injured People* campaign itself was a step forward for the legal profession, with the Law Society of NSW, the NSW Bar Association, the Law Council of Australia and the Australian Lawyers Alliance all coming together for the first time on any issue, to fight for tort reform in NSW.

Members of the Alliance's NSW branch committee were heavily involved in organising events aimed at changing the opinion of candidates in the NSW election prior to the March 24 poll.



With the election now decided, the campaign must now change its tactics, and Justice Ipp has made some useful observations about the direction we must go in order to achieve change. He told our members that the best chance we had for achieving change was to come to an agreement with the insurance industry, with the ultimate objective of putting a mutually agreed model to the politicians.

The Australian Lawyers Alliance is already organising meetings with major insurers to this effect, and we believe we can find a solution that offers equitable outcomes for insurers, victims and the legal profession. ■

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