known. It is the writer's view that the primary obligation rests with the doctor to ensure, through adequate counselling and advice, that the plaintiff understands the purpose of investigations and the fact that a breast lump cannot be dismissed as benign on the basis of clinical or radiological evidence alone. Unless this is communicated to a patient, it is hard to blame a patient for taking comfort in the reassurances of her doctors.

Notwithstanding there was no final decision in this case the issues are important and commend themselves to consideration by both the medical and legal profession. This is particularly so in light of the commonwealth's current inquiry into the management and treatment of breast cancer in Australia. Many written submissions refer to late diagnosis following false reassurances by general practitioners.

Editorial

APLA is going from strength to strength. Membership is growing at a steady rate and our seminar programs are now firmly in place in Qld, NSW, Vic and SA. We hope to be able to offer seminars to those members in the other states and territories in the near future.

There are a number of matters which I would like to bring to member's attention.

Firstly, our membership directory for 1995/6 will be compiled in the next month. The Executive Officer will be sending out a data base form which will contain all your details . If you were in our directory last year the brief description you supplied will also be on the form. Members should update this description if required. Members who have joined since the last directory will be required to write a short description of their practice.

Secondly, we have inserted multiple copies of our expert database forms. We are still in need of expert witnesses, particularly witnesses who will do medical negligence work. Although other experts are still welcome. The success of this service is participation from all members.

The Importance of Independent Advice

John Watts, NSW

In September 1994 his Honour Justice Cohen handed down a judgment in the matter of *McNally v. GIO Finance Limited & Ors.* The plaintiff was a quadriplegic born in 1972. He was severely injured in a car accident and received damages for $1,409,000. At the time he was given his compensation he was only sixteen years of age and the funds were invested on trust for him. The trustees were his then solicitor and his father.

The plaintiff turned eighteen in March 1990 and the plaintiff's father continued to look after the plaintiff's financial affairs.

After the plaintiff reached eighteen he purchased a suburban house, which was specially modified for him to live in. He also purchased an investment house, which was rented out.

Soon after the plaintiff moved into the house the father told the plaintiff that it would be advantageous for him to invest money in a video business run by the father. The plaintiff was, of course, young, inexperienced in business affairs and left the conduct of his affairs to his father.

It appeared on the evidence that the father put most of the plaintiff's verdict monies through the business. The business did not prosper and in order to raise further funds for the business, the father negotiated a loan with one of the defendants, being GIO Finance Limited. In order to secure that loan the GIO wanted a mortgage and the father arranged for the son to sign mortgages over both the residential property and the investment property. The father's solicitors had advised the father from time to time in relation to a number of matters and then purported to act for the plaintiff in giving him independent advice in relation to the GIO mortgage. The father's solicitor attended upon the plaintiff on three occasions to advise the plaintiff in relation to the mortgages.

Prior to the mortgages being granted, the plaintiff had apparently been sued by a third party for a debt of $142,000 arising out of the business conducted