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NSW Campaign Officer Hannah Middleton hmiddleton@apla.com

PLAINTIFF

Managing Editor Tina Cockburn

t.cockburn@qut.edu.au Phone: 07 3864 2003

Editor Adam Flynn aflynn@apla.com Phone: 02 9698 1700

Front Cover: Alena Davies. Photographed by Bill Madden

Australian Plaintiff Lawyers Association Ltd

PO Box 2348, Strawberry Hills NSW 2012 Australia

DX 22515 Surry Hills

Phone: 02 9698 1700 Fax: 02 9698 1744

Email: info@apla.com Website: <http://www.apla.com>

PLAINTIFF is published bi-monthly by the Australian Plaintiff Lawyers Association, APLA. Contributors and advertisers are required to take note of the deadlines for copy and artwork for future editions. Copy should be received electronically (via email or on disk) and by hard copy. Send your contributions to the above address.

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Managing Editor's *note*

The courts are regularly faced with the difficult task of determining whether the loss suffered by a plaintiff should be shifted to the defendant. Medical negligence cases are no exception. This often involves balancing the policy considerations of compensating deserving plaintiffs and promoting desirable conduct, yet avoiding the possibility of excessive compensation and imposing unreasonable constraints on conduct. Insurance may be relevant, but is not paramount.

Government intervention in New South Wales has placed limitations on damages awards in medical negligence cases with the introduction of the *Health Care Liability Act 2001 NSW*. Bill Madden discusses this and other developments that will significantly impact upon the practices of plaintiff lawyers in the area of medical negligence. It is pleasing to note from Rob Davis' president's report that APLA has been invited to participate in the Consultative Forum with the AHMAC.

Plaintiff lawyers of course have the task of persuading the courts that in appropriate medical negligence cases, their clients are deserving of compensation. Kathy Sant discusses developments in the law relating to damages for loss of opportunity of successful treatment and notes that plaintiffs may now have better prospects of recovery, following the recent decision of *Gavalas v Singh*. Obviously a plaintiff's prospects of success are dependant upon a thoroughly prepared case and Melissa Meldrum's practical analysis of claims arising out of childbirth will no doubt be of interest and assistance as will Dr Lynton Giles' discussion of medical expert's reports.

Further challenges will arise in the future as plaintiff lawyers deal with other issues which arise as a consequence of changes in health care such as managed health care and the implications this has so far as the potential conflicts this creates for doctors in relation to the fiduciary obligations they owe to their patients.



TINA COCKBURN BRISBANE