



National Product Liability Association Inc.

ABN 52 085 192 570

PO Box 7622 Melbourne Victoria 8004 • Tel (03) 9867 0282 Fax (03) 9867 0199

NATIONAL PRODUCT LIABILITY ASSOCIATION PRESIDENT'S REPORT 2004

2004 has been another year of solid performance by the National Product Liability Association. In my first annual report as National Product Liability Association President I am pleased to be able to say that I believe the Association is in a good position to meet the challenges ahead.

Executive Committee

In 2004 the Executive Committee consisted of:

David Poulton - President
Peter Holloway - Vice President
Melissa Daly - Treasurer
Derek Begg - Secretary
Andrew Morrison - Immediate Past President

and Committee Members:

Pam Madafiglio (NSW)
Annette Hughes (Joint Brief Editor)
Belinda Thompson (Joint Brief Editor)
George Karalis
Maryjane Crabtree
Peter O'Donahoo
Jane Wilhelm

Brief

As always, a major focus of activity has been our periodical, Brief. Under the energetic editorship this year of Annette Hughes and Belinda Thompson we have moved to quarterly issues and accordingly have published three issues so far in 2004 with a bumper Christmas number to come. As in previous years, the standard of contributions to Brief has been uniformly high. We continue to encourage members and external contributors to submit articles to this excellent publication. Thanks go to all of the contributors this year. I am pleased that Annette and Belinda will continue as joint editors in 2005.

Tort Law Reform/Emerging legal issues

In his President's Report last year, my predecessor Andrew Morrison noted that the codification of Australian tort law was 'finally making its presence felt in the southern states'. Tort law reform has certainly dominated much of the discussion in the area of product liability this year, and looks set to continue to do so. Reforms to the Trade Practices Act restricting entitlements to personal injuries damages looks certain to have an effect on product liability litigation for years to come. Nevertheless, significant areas of potential exposure remain for Australian corporations. It has been particularly interesting to observe the developments which have occurred in the field of asbestos litigation. Asbestos liability again looks likely to be a significant area for discussion in 2005.



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The NPLA will continue to monitor and report on legal developments of interest to our members.

Secretariat

I would like to take this opportunity to acknowledge the excellent assistance provided this year by Athena Tashevskva, the hardworking manager of our Secretariat, the Australian Industry Group. Following our review of the role of the Secretariat last year, Athena has worked closely with me and other members of the Executive Committee. As well as assisting in the organisation of functions and seminars, Athena has been instrumental in the efficient running of the Executive Committee, including the provision of agendas and minutes of meetings on a timely basis.

Seminars

As in previous years, the Back to Basics seminar series was an important component of the seminars run by NPLA. In spite of the continuing competition from an increasingly crowded seminar market, our Back to Basics seminars were quite well attended this year.

Early in the year, we also organised a presentation by Sydney academic, Dr Luke Nottage on a comparative analysis of Australian and Japanese product liability law, which also included a presentation by barrister, Michael Wheelahan on the practical aspects of running international product liability claims.

Our thanks go to all of our speakers at our seminars so far this year, as well as the various legal firms which provided speakers and venues for the Back to Basics series.

The NPLA is also pleased to be supporting the upcoming seminars in Melbourne and Sydney entitled 'International Liability: New Theories of Liability from the United States - Will you be Ready?' organised in conjunction with the Defence Research Institute, a very large association of US and international defence lawyers, as well as our colleagues at Australian Insurance Law Association and the Australian and New Zealand Institute of Insurance and Finance.

Looking forward to next year, our aim is to develop some new seminar programs, focused on specific industries, or specific emerging issues in product liability. In developing these seminars, we propose to look for programs which have the potential to be run in both Melbourne and Sydney. We are looking to expand the Association's profile in interstate venues, and with our existing Sydney representation we consider this to be the logical place for special focus.

Lobbying Committee

The lobbying committee has continued to monitor developments of interest to members.

In February 2004 a submission was made to the Product Safety Unit of the Queensland Office of Fair Trading concerning infant bathing aides. The Office of Fair Trading was conducting an inquiry into the safety of these products following upon a number of infant deaths in Australia and overseas.

More recently, a paper is being prepared for submission in response to a review of the Australian consumer product safety system being conducted by the Ministerial Council on Consumer Affairs.



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A discussion paper has been published by the Council which canvasses possible reforms to consumer product safety laws in Australia. Comment has been sought on a variety of issues, including whether a “general safety provision” should be introduced to impose a legal obligation on businesses to only place “safe” consumer products on the market.

Specific issues about which comment is sought include:

1. the major problems confronting Australia’s consumer product safety system
2. how governments should address these problems
3. whether “services” should be covered by the TPA product safety provisions?
4. whether consumers receive sufficient product safety information
5. whether businesses should be required to report unsafe products
6. whether a product safety “early warning system” should be developed in Australia

A copy of the submission will be available on the NPLA website in November 2004.

Looking forward to 2005

Apart from the seminar program mentioned above and our other ongoing activities, we will also be making further enhancements to our website over the coming year.

I would like to thank all members of the Executive Committee for their assistance this year, and look forward to working with them again next year.

I hope many members have the opportunity to attend the upcoming DRI/NPLA/AILA/ANZIIF seminar referred to above and I look forward to catching up with as many members as possible at the Melbourne seminar. Otherwise, I would like to take this opportunity to wish all of our members early compliments of the season.

David Poulton
President
NPLA
22 October 2004