

13 June 2011

NSW Law Reform Commission
GPO Box 5199
SYDNEY NSW 2001

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Also sent via email

Subject: Submission: Consultation Paper 14- Compensation to Relatives

To Whom It May Concern:

I have read your Consultation Paper 14- Compensation to Relatives and would like to state that I believe the law should be changed with regard to the limitation which restricts the recovery of damages for non-economic loss/ bereavement damages to those cases in which the victim had commenced proceedings before his or her death.

I speak from a recent personal tragedy which my family are still slowly trying to come to terms with. My father John became unwell late last year. From August 2010 he commenced medical examinations which included twenty six (26) different tests such as x-rays, MRI's, CT scans etc. He kept a record of all the tests and their results which were clear.

His condition however continued to deteriorate. He spent approximately six (6) weeks in and out of Sutherland Hospital (Sutherland) sometimes in excruciating pain. He underwent further tests whilst an inpatient but his condition continued to baffle doctors and remained undiagnosed. In early December he was finally transferred to St George Hospital (Kogarah) for a lung biopsy.

On 24 December 2010 he and the family were told following the biopsy that they suspected mesothelioma. This diagnosis was confirmed via the pathology results on 30 December 2010. By this time my father was in the palliative care stage.

This devastating situation for the family also occurred during holiday season where many specialists were on leave. We finally met his respiratory specialist early January 2011 after he returned from leave. He spoke to Dad and bluntly told him that there was not much they could do for him and that chemotherapy would only "buy more time". I could not look at the doctor and held my face in my hands. Coupled with this devastating news he advised us that "lawyers love mesothelioma". When he left the room my father broke down in tears. He had left him and us without a shred of hope.

The family was not in any state to consider contacting lawyers when we knew our time with him was limited and obviously his care and comfort was our sole concern. My father came home from hospital on 13 January 2011 under the care of my sister (a registered nurse for 30 years). The hospital gave us papers from the Dust and Diseases Board which at some point my mother found time to fill in.

I was present when they interviewed my father in mid January. He struggled through the interview but answered their questions.

He passed away at home on 25 January 2011 aged 72. From the time of the diagnosis to his passing we had four (4) weeks to deal with his diagnosis and subsequent passing.

We believe he contracted this disease through his employment at a paper factory for 30 years. Prior to this my father was healthy, fit and active and he was taken away from us through this deadly aggressive disease.

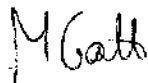
To summarise:

- When my father was finally diagnosed I did not even know what mesothelioma was let alone that it would take his life within 1 month.
- The family did not know the avenues that were available. It was the hospital that informed us we needed to advise the Dust and Disease Board.
- There needs to be some allowance for people in our situation. We mustn't be the only ones in a situation where the death occurs so quickly and the family is in no mental state to consult lawyers. Dad was certainly in no state to talk to lawyers.

The limitation on making a claim in the person's lifetime needs to be removed. There should be some compensation available to us his loved ones for his wrongful death, the suffering he endured resulting in premature loss of life and suffering we have and still are enduring.

I trust you will take our personal tragedy into account with a view to changing the current laws and making them fairer for people in our situation.

Yours Sincerely



Maryanne Gatt

