

'Personal Injury Law', *La Trobe University Law Students' Association Careers Guide* (2003), p.103.

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Personal injury law is not difficult to recommend to law students who are considering what direction to take in their studies and careers. Despite being subject to frequent criticism - as in the recent controversy about public liability insurance and the regular condemnation of 'ambulance chasers' - it is a challenging and rewarding field of law in which to work.

Personal injury law, to state the obvious, concerns the legal consequences of injuries to the body or (less frequently) the mind. It takes in the fields of transport and workplace accident compensation (known as TAC and WorkCover law respectively), occupier's liability, crimes compensation and medical negligence. Each of these areas has its own features, but some points common to all of them can be made.

In a plaintiff firm the essential object is to obtain compensation for the client's injuries. This is achieved in various ways. If the case involves a statutory scheme (like WorkCover, TAC, or Crimes Compensation) the relevant statutes lay down the procedures and in dealing with the client and handling the file one must comply with the scheme requirements, which may involve requesting medical reports, hospital records, tax returns, or a copy of an insurance company's file (as appropriate). In non-statutory fields (like medical negligence, public liability or occupier's liability) a somewhat different approach is necessary. One must go through the processes common to all types of personal injury claim of discussing the incident with the client to ascertain exactly what happened and the extent of the harm, and possibly also seeking expert opinions to assess whether liability will attach. However, in these types of claims, the processes of negotiation and litigation are less comprehensively codified.

Continuing legal education is vital in this practice area. A great deal must be learnt on first entering it. My law course - and I'm assuming most others - mentioned TAC, WorkCover and crimes compensation law barely if at all. Personal injury law itself was dealt with only as a strand of the wider law of tort. Because some parts of the area have a specific statutory basis one must learn from scratch how they work. This can cause confusion at the start, with one approaching nearly all tasks with a common law negligence framework in mind, even though in the TAC and WorkCover fields (for instance), unless one is able to recover common law damages (which is not guaranteed), issues of negligence are irrelevant.

The need to keep learning is strengthened by the amount of change this field undergoes. For example, the *Victims of Crime Assistance Act* and *Accident Compensation Act* have been amended frequently to match changed government policies. From time to time appellate courts hand down rulings which reshape a whole area of personal injury law (as in *Brodie v Singleton S.C.* or *Jones v Bartlett*). One must also stay abreast of these changes.

Before you shake your head in despair, this area does call upon several things that *are* taught at law school. For example, in the fields of public and occupier's liability

the principles of negligence apply. Moreover, a Civil Procedure subject is invaluable: one regularly encounters procedural considerations and having a working knowledge of what can be done and how is incredibly useful. Furthermore, although this area deals with bodily injuries, there is no need to enter it with any particular medical or anatomical knowledge.

A further, fairly obvious, point about personal injury practice is that it involves considerable client contact. This might be what attracts you to this jurisdiction, but one should bear some things in mind. The first is that most clients' contact with the law has been nil. Hence they may have over-optimistic views on what can be achieved or how quickly the process can move. This may be exacerbated by them experiencing considerable pain and financial turmoil as their earning capacity diminishes. The second point is that some clients will ring up frequently about their matter. This can be helpful, as it offers the opportunity to show them that their file has not been forgotten about and also gives an opportunity to keep track of their concerns; on the other hand, dealing with their calls can be rather time-consuming. The third point is that (although this may not be the case at all firms) one regularly finds oneself dealing with people for whom English is a second language. This can present considerable challenges in (a) making yourself understood and (b) understanding the answers to questions (many times since I started my Articles I have thought how valuable it would be to understand Vietnamese, Turkish or Macedonian).

This, hopefully, has given a rough overview of what one can expect (at least as an Articled Clerk) in personal injury law. Whether you enter it out of a strong social justice motive, or treat it as a stepping-stone to something else, or it simply happens to be the area you find work in, this field will provide you with considerable challenges and daily encounters with some of the most fascinating aspects of life.