

# Solicitors' Warning

*Encounters with plate glass doors and windows often result in serious injuries. Building owners and occupiers and their insurers should be aware of the scope of liability in negligence for potential injuries from glass breakage.*

*Freehills, Lawyers*

**A review of recent case judgements reinforces the warning from Freehills**

## Thomson v SA Housing Trust

An eighteen-year-old South Australian girl was awarded \$23,961 in damages. Her back and arms were seriously lacerated and disfigured by a breaking shower screen. The court found that the owner/operator, South Australian Housing Trust, was liable for having glass in the shower screen that was not up to current Australian Standards.

## Giner v Public Trustee

An eleven-year-old girl fell through the door of a flat, which had been built prior to 1970. Her cuts were so deep as to almost sever her leg. In awarding damages of \$139,058, Judge Mildren rejected the Defence that the flat was glazed to the standards pertaining at the time. He confirmed that the relevant factors are those existing at the time of the accident.

## Jenkins v Culbertson

In this case, an intending customer walked into the shop's glass door at night, after the shop was closed. The glass shattered, damaging the customer's face. The judge awarded damages of \$11,400 saying that the defendants failed to discharge the duty of care upon them. The glass door did not incorporate the safety features, which properly such a door should have fitted to safeguard it. A subsequent appeal was dismissed with costs.

## Business ordered to pay \$5000 for cut arm

*The West Australian* October 28, 2000

Centrelink must pay compensation to a man who smashed his hand through a glass door after he was told he had to wait in an unemployment office queue.

The District Court has ruled that the CES, now known as Centrelink, should have foreseen that it would have angry and frustrated clients and therefore should have used strengthened safety glass in its front doors.

The plaintiff was awarded more than \$5000 compensation for a severe gash to his forearm after Judge Peter Nisbet ruled the Commonwealth had failed in its duty of care. Mr O'Callaghan would have received more than \$10,500 compensation for pain, suffering and medical expenses if Judge Nisbet had not found that he was 50 per cent to blame for his injuries.

## What is the Moral of these Cases?

- All new glazing must conform to AS1288
- All reglazing must conform to AS1288
- All existing glazing should be assessed for conformity to AS1288
- All parties have a 'duty of care' to provide a safe environment
- All glass products must be 'fit for purpose'
- Disregarding these rules could lead to expensive awards for damages

To ensure that you are as fully protected as possible, contact the relevant State Body as listed below. Prevention is far cheaper than cure.

Yours faithfully,



Ian F. Koochew  
 Executive Director  
 Australian Glass & Glazing Association