



HIGH COURT OF AUSTRALIA

Public Information Officer

1 September 2005

APLA LIMITED, MAURICE BLACKBURN CASHMAN AND ROBERT LESLIE WHYBURN
v LEGAL SERVICES COMMISSIONER OF NEW SOUTH WALES AND STATE OF NEW
SOUTH WALES

The High Court of Australia today upheld the constitutional validity of a NSW ban on lawyers advertising their services in relation to personal injury claims.

The plaintiffs challenged the validity of Part 14 of the Legal Profession Regulation made under the *Legal Profession Act*. Part 14 makes it both an offence and professional misconduct for a barrister or solicitor to publish an advertisement that includes any reference to personal injury or to any legal service that relates to an entitlement to recover money for personal injury. The regulation, which took effect in May 2003, was one of several measures said by the NSW Government to be designed to reduce the volume of personal injury litigation and the growing cost of public liability insurance premiums. The plaintiffs wish to run advertisements in newspapers, the Yellow Pages and trade union journals and on the internet and, in Maurice Blackburn Cashman's case, to send letters to legally unrepresented people affected by faulty heart pacemakers to invite them to seek legal advice regarding a class action against the manufacturers.

The plaintiffs contended that the Part 14 regulations are invalid because they infringe the constitutionally guaranteed freedom of communication on government and political matters; infringe the requirements of Chapter III of the Constitution and of the rule of law; infringe section 92 of the Constitution guaranteeing freedom of interstate trade, commerce and intercourse; exceed NSW's legislative and regulatory powers by their operation beyond NSW; and are inconsistent with various Commonwealth laws.

By a 5-2 majority, the Court rejected each of these contentions and upheld the validity of the regulations.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*