

OUR REF: BMW:KEK:02012

YOUR REF:

9 December 2004

Mr Terence Lindsay  
27-29 Culgoa Crescent  
LOGAN VILLAGE QLD 4207

**RE: PERSONAL INJURY CLAIM**

We acknowledge receipt of your emails dated respectively 1 December 2004, 5 December 2004 and 8 December 2004 and the documents enclosed therewith.

In relation to the most recent correspondence from Dr. Irene Campbell-Taylor we note that **Queensland Health has effectively admitted breach of duty** and the only matter in issue is the affect of that breach of duty on you.

**We have no doubt that the gastrografen in your lungs could have killed you** but fortunately it did not. We also accept that it could have aggravated your pancreatitis, and the extent to which it did aggravate your pancreatitis is the issue in this litigation.

We note that Dr. Irene Campbell-Taylor says that the gastrografen "may have worsened the pancreatitis" but that by itself is not sufficient because, as you are aware, you have to establish your case on the balance of probabilities rather than possibilities, and until some acceptable expert says that your pancreatitis was aggravated and by some significant degree, you have no evidence enabling you to move beyond the current position of your Claim which is that the gastrografen had, at worst, only a minor impact on your pancreatitis.

Reports about clinical trials and what can happen to patients who ingest gastrografen are interesting but unless and until an acceptable expert is able to testify that in your case the gastrografen produced particular adverse effects, the assessment of your Claim will not progress beyond the currently available evidence.

Whilst you are continuing your investigations we will not initiate any contact with the Respondent's Solicitors but if we receive anything from them we will advise you accordingly.

Yours faithfully

  
**JONATHAN C. WHITING & ASSOCIATES**