Turner Freeman

Lawyers Est. 1952

A guide to our Personal Injury Law services

GREAT PEOPLE. GREAT RESULTS. GREAT VALUE.

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Turner Freeman Lawyers has been providing quality legal advice and assisting people to resolve their legal disputes quickly and efficiently for more than 60 years. Our well-established and experienced team is here to provide you with practical advice and help you secure a successful outcome.

At Turner Freeman Lawyers we focus on building a strong and trusting relationship with you and we listen to your needs. With more than 50 lawyers nationwide, fluent in many languages, you are in good hands.

Gaius and Fiona in our Sydney office, Richard in our Parramatta office, and Gerard in our Newcastle office are all accredited by the Law Society of New South Wales as specialists in personal injury law.

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Personal Injury

"The consequences of an injury can be stressful, tragic and painful. You are forced to cope with a new state of normal where you are now in pain, suffer restriction of movement and are no longer able to do the work and activities that you used to do. In addition you now find that you are financially worse off and have the added pressure of having to deal with an insurance company.

Turner Freeman understands the pressure that an injury places on you and your family. We have been dealing with your type of situation for more than 60 years and our high level of experience combined with our expert ability to bring litigation matters to a successful conclusion makes Turner Freeman the perfect choice.

We pride ourselves on the fact that we have Accredited Specialists on our team. An Accredited Specialist is a lawyer identified, monitored and registered by the Law Society as having extensive experience, proven expertise and who has completed an advanced study program and examinations in a particular area of law. Only those solicitors who pass the Law Society's exacting tests are accredited.

Having Accredited Specialists makes Turner Freeman the right choice when it comes to choosing a lawyer."

Armando Gardiman
MANAGING PARTNER

Turner Freeman
Lawyers

At Turner Freeman, we are proud of the testimonials provided to us by past clients.

We invite you to explore our website and to view the video testimonials from past clients, as well as the video clips on our partners.

www.turnerfreeman.com.au/nsw

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Workers Compensation Claims

Unfortunately, most injuries happen in the workplace and if you suffer an injury at work, or as a result of the nature and conditions of your employment over time, you are entitled to claim workers' compensation benefits. Workers' Compensation is a basic safety net which operates on a no fault system. When you have suffered an injury at work it is important that all of your workers' compensation rights and entitlements be fully explored by a specialist lawyer.

Turner Freeman has specialists with in-depth knowledge and experience in Workers' Compensation law. Significant changes to the Workers' Compensation laws take place frequently and it is important that you seek up to date specialist advice to be aware of your rights and entitlements as these changes take effect.

What are your Workers' Compensation entitlements

Weekly payments of compensation

The Workers' Compensation Act 1987 provides for weekly payments of compensation for workers who are totally or partially unfit for work (see schedule below).

First 13 weeks of incapacity	You are entitled to be paid 95% of your pre-injury average weekly earnings during periods of total or partial incapacity.
From 14 weeks to 2.5 years	You are entitled to be paid 95% of your pre-injury average weekly earnings by the insurer if you are working at least 15 hours per week. You are entitled to be paid 80% of your pre-injury average weekly earnings by the insurer if you have no capacity for work or if you are not working at least 15 hours per week.
From 2.5 years to 5 years	You are only entitled to ongoing payments of weekly compensation from the insurer if you satisfy one of the following: - The insurer assesses you as having no current work capacity and you are likely to continue indefinitely to have no current work capacity - The insurer assesses you as having some current work capacity and you have returned to work for a period of at least 15 hours per week and you are in receipt of current weekly earnings of at least $155.00 per week and the insurer is satisfied it is likely that you will continue to be incapable of undertaking any further additional employment that would increase your current weekly earnings - You are deemed a worker with high needs who is assessed by the insurer as having no work capacity. In order to be deemed a worker with high needs the insurer must agree your level of whole person impairment is 21% or more.
After 5 years	Continuing compensation is only available to those who are deemed a worker with high needs.

Workers Compensation Claims CONTINUED

Medical, hospital and pharmaceutical expenses

In addition to weekly payments, you are entitled to payment of or reimbursement for your medical and related expenses if the treatment is considered to be medically reasonably necessary.

The insurer must pre-approve the treatment before it is provided, other than emergency services provided within 48 hours of your injury.

The entitlement to medical and related expenses extends to the cost of surgery, hospital and pharmaceutical expenses. You can further claim for your travel to and from medical appointments. You need to keep a record of the precise number of kilometres you drive and of the appointment you attended, and you should then forward these to the insurer for payment.

Strict time limits have been placed on a workers' entitlement to claim medical and treatment expenses as follows:

2 years	If your degree of whole person permanent impairment has not been assessed or it is agreed you suffer from a **10% or less whole person impairment**, your entitlement to medical and treatment expenses will cease 2 years from the last date weekly compensation payments were payable to you, or alternatively if no weekly compensation payments were payable, then 2 years from the date your claim for compensation in respect of the injury was first made.
5 years	If your injury has resulted in an accepted or binding degree of whole person impairment **greater than 10% but not more than 20%**, you are entitled to a period of 5 years of medical treatment.
For life	If your injury has resulted in a degree of whole person impairment which is **21% or greater**, you are deemed to be a worker with high needs and there is no limitation on the period of your medical treatment.

The limitation period is not applicable to compensation sought for medical and treatment expenses in respect of the provision of crutches; artificial members; eyes or teeth; other artificial aids or spectacles and secondary surgery in certain circumstances. This includes things such as hearing aids which you are entitled to for life.

It is important that all of your workers' compensation rights and entitlements be fully explored by a specialist lawyer.

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- ***Lump sum compensation for permanent impairment***

You are entitled to lump sum compensation for permanent impairment if it is agreed you suffer from a 11% or greater whole person impairment as assessed by a WorkCover trained doctor and in accordance with guidelines set by WorkCover.

The amount of compensation is dependent on the severity of your impairment with a set amount of compensation payable for each percentage loss.

You are only entitled to make one claim for lump sum compensation in respect of the permanent impairment that results from an injury and it is important you seek specialist legal advice before investigating your potential claim.

Recent changes to the law now permit injured workers who initially received lump sum compensation prior to 19 June 2012 to make one more claim if their condition has deteriorated. This is the last claim for lump sum compensation a worker can make.

How do you make a claim and are there time limits?

You should notify your employer as soon as possible after the injury, so the incident can be recorded. If you require time off work, you should consult with your general practitioner and have the doctor complete a Work Cover Certificate of Capacity. You should provide this Certificate to your employer.

A claim should be made as soon as possible and certainly within a maximum of six months from the date of injury or accident. If your claim has been made outside of this period you may still claim if there is a reasonable cause for the delay.

What happens when a dispute arises with the workers' compensation insurer?

If the workers'compensation insurer disputes liability for your claim or disagrees with the level of permanent impairment, you can request the insurer review their decision and if this is unsuccessful, your claim can be referred to the Workers Compensation Commission to determine the dispute.

It is important you seek specialist legal advice and assistance to deal with any disputes.

How do your legal costs and disbursements work ?

The Workers Compensation Independent Review Officer (WIRO) provides funding to cover your legal costs and disbursements. Should you require our assistance to challenge a dispute notice or investigate your level of whole person impairment, we will prepare an application for funding on your behalf and submit it to WIRO. In our experience if your claim has reasonable prospects of success, the applications we submit are almost always approved, and once approved, WIRO will pay for all of your legal costs and disbursements.

You must use a lawyer accredited as an Approved Legal Service Provider by WIRO and Turner Freeman has some of the first lawyers to be accredited by WIRO.

Industrial Deafness

Industrial deafness is one of the most common forms of hearing loss and occurs as a result of exposure to noise over a long period of time, generally from a noisy work environment. The loss of hearing is gradual and therefore often people who have industrial deafness might not even know it!

If you have industrial deafness, you may be able to make a claim for both monetary lump sum compensation and the cost of hearing aids. All you will need to do is have a hearing test to find out how severe the problem is.

People who are exposed to loud noise over a long period of time tend to lose the ability to hear higher pitched sounds. These symptoms are worsened when the sufferer is in an area with high levels of background noise or in group environments. They cannot hear the television clearly and speaking on the telephone becomes extremely difficult.

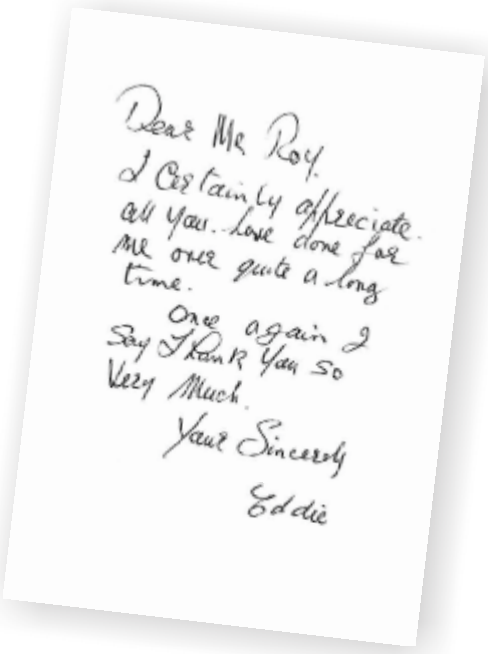
The problem can be compounded by the presence of tinnitus; an annoying buzzing sound in the ears. No medical procedure can rectify these problems and therefore the damage is permanent and irreversible. Sometimes hearing aids may be prescribed to assist in communication.

Industries and occupations which often expose workers to high levels of noise and have high occurrences of industrial deafness include:

- construction;
- electrical and plumbing;
- mining and engineering;
- factories and processing;
- agriculture and farms;
- local councils;
- railways and transport;
- heavy machinery;
- manufacturing;
- airline industry;
- metal industry;
- printing;
- maintenance;
- waterside labour;
- industrial painting;
- packaging;
- infrastructure.

So we can arrange a hearing test please contact your nearest Turner Freeman office and ask to speak to our Industrial Deafness team or call our toll free number 13 43 63.

Even if you have made a claim before, you may be able to get new hearing aids and sometimes further compensation for any extra hearing loss.


Dear Mr Roy.
I Certainly appreciate all you have done for me over quite a long time.
Once again I say Thank You so Very Much.
Yours Sincerely
Eddie

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Skin Cancer Claims

Many workers have worked outdoors for substantial proportions of their working lives, especially in the waterfront, seafaring, transport, municipal council, agricultural, mining, construction, forestry, and manufacturing industries.

Working outdoors means exposure to sunlight which often causes skin cancers. Skin cancers frequently emerge many years after retirement.

Skin cancer sufferers are often unaware that they have very valuable workers' compensation entitlements if they have spent part of their working lives, working outdoors.

Turner Freeman has the most extensive practice in obtaining compensation for skin cancer sufferers in Australia. We litigated the landmark case of *Stone vs Stannard Bros Launch Services*. This decided that compensation for skin cancer sufferers was to be determined at the rates applicable at the time the claim was made, and not at the rates applicable when the worker last worked. This can make a very substantial difference to the compensation amount.

The *Workers' Compensation Act* provides that workers are entitled to compensation for their skin cancers if their employment is found to be the main contributing factor to the development of the skin cancers. This is a matter of degree, where all the contributing factors to a worker's skin cancer condition need to be compared.

Once compensation entitlements are recognised, workers are entitled to:

- Medical costs (payable for one year) related to their skin cancers;
- A lump sum payment (calculated in accordance with the WorkCover guidelines) in relation to the current level of their whole person impairment related to their skin cancers.

Skin cancer sufferers are often unaware that they have very valuable Workers' Compensation entitlements if they have spent a proportion of their working lives working outdoors.

The compensation is paid by the insurer of the last employer to expose the worker to any degree of sun exposure.

There are generally no time limits on claiming compensation for skin cancer.

The legal costs associated with compensation claims for skin cancers are payable through the Workers Compensation Independent Review Office (WIRO), and are not paid by the claimant where funding is approved by WIRO.

Comcare Claims

Workers injured during their employment in the armed forces, the Merchant Navy, or with Commonwealth Government departments have their workers' compensation entitlements determined in accordance with Commonwealth legislation, rather than the New South Wales *Workers' Compensation Act*.

The Comcare scheme also applies to a number of private employers who are nationally based and have applied to be part of the scheme (such as Telstra, Australia Post, the Commonwealth Bank, and the National Australia Bank).

The entitlements and procedures under Comcare are very different from those under the New South Wales Workers' Compensation Act.

The lawyers at Turner Freeman have many years' experience in handling these claims. Call our toll free number **13 43 63** for advice.

Compensation entitlements under the scheme include:

- Weekly payments of compensation for periods of incapacity. The payments are calculated according to a formula, and generally result in injured employees receiving between 75% and 95% of their normal weekly earnings during periods of incapacity (depending upon the degree of incapacity and their remaining ability to earn);
- Payment of medical and treatment expenses;
- Lump sum payments for impairment and non-economic loss, i.e. pain and suffering. The lump sums are generally available only if injured employees have their degree of impairment assessed to be at least 10% whole person impairment in accordance with specified guidelines.

Claims under the Comcare scheme are initially made to the relevant compensating authority. If the claims are denied, injured employees can request that the denials be reconsidered. Following those reconsiderations, claims that are still denied can be referred to the Administrative Appeals Tribunal.

The entitlements and procedures under the Comcare Scheme are very different from those under the New South Wales Workers' Compensation Act. At Turner Freeman, we have many years' experience in proceeding with both types of claims.

It is important to seek legal advice before you make any claim. Turner Freeman works on a no win-no fee basis for Personal Injury claims. Unless you recover compensation you will not be charged for our work.

Motor Accident Claims

If you are injured in a motor vehicle accident, there is a minefield of strict procedural and time requirements in claiming compensation. Turner Freeman are experts at ensuring compliance with these requirements. Our toll free number is 1800 800 088.

If you are injured as a pedestrian, passenger or driver in a motor vehicle you may bring a claim for compensation under the motor accidents legislation if the injuries have been caused by the fault or negligence of a driver or owner of another motor vehicle.

'Motor vehicle' is widely defined under the legislation. It includes forklifts as well as other similar, motorised, industrial machinery, whether registered or unregistered.

The motor accidents legislation generally requires that a motor accident claim be brought when industrial accidents involving the negligent driving of a forklift or similar machinery occur.

A claim may be brought against the Nominal Defendant in circumstances where the motor vehicle allegedly responsible for the accident, has not been identified or is unregistered.

The Nominal Defendant is a statutory body established to compensate you in these circumstances.

It must be demonstrated to the Nominal Defendant that reasonable attempts have been made to identify the vehicle responsible for the accident through making 'due search and enquiry' with available witnesses or through publishing notices with local newspapers seeking information about the vehicle.

Making a claim

It is important to seek legal advice for these claims. There are strict time limits and procedures under the motor accidents legislation. Turner Freeman has many years' experience in making motor accident claims and our lawyers can help you through the process. Your rights to claim compensation may be compromised or lost if the time limits are ignored.

The procedure:

- Report the accident to the Police within 28 days of the accident;
- Lodge an Accident Notification Form with the compulsory third party insurer of the vehicle allegedly at fault within 28 days of the accident. This secures provisional acceptance of liability and payment of up to $5000 for medical expenses or loss of income;

Motor Accident Claims CONTINUED

- Lodge a Personal Injury Claim Form with the compulsory third party insurer of the vehicle allegedly at fault within six months of the accident.

You can still make a claim if there has been a delay in reporting the accident to the Police or in lodging the Personal Injury Claim Form, but the compulsory third party insurer is entitled to seek an explanation for the delay. The explanation must be lodged by the claimant in the form of a Statutory Declaration.

The compulsory third party insurer may be entitled to reject your claim if the explanation is not 'full and satisfactory'.

Claims Assessment and Resolution Service (CARS) and the District Court

A claimant is entitled to seek a general assessment of all compensation payable by the compulsory third party insurer before an Assessor in an administrative tribunal, (CARS), if there is no dispute that the insured driver or owner of the vehicle allegedly at fault, was negligent. Within three months of receiving the Personal Injury Claim Form, the compulsory third party insurer is required to respond with a written notice denying or accepting liability for the claim or alleging contributory negligence on the part of the claimant.

A denial of liability by the compulsory third party insurer may entitle a claimant or compulsory third party insurer to bring an application to CARS for an exemption from general assessment by that Tribunal. This means proceedings are commenced in the District Court.

It is also possible to begin proceedings in the District Court seeking a further determination of damages payable where there has been a general assessment of damages by an Assessor at CARS, that you are not satisfied with.

There is no time limit for commencement of proceedings before CARS, and an application lodged with that tribunal stops the running of time in relation to the time limit for any proceedings that are later commenced in the District Court. Otherwise, proceedings must be commenced in the District Court within three years of the date of the accident.

If District Court proceedings are not commenced within the time limit a claimant must provide a 'full and satisfactory' explanation for the delay in commencing proceedings, and seek the leave of the Court to commence them.

Damages

Pain and suffering damages will not be awarded unless the extent of injuries and

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disabilities from the accident have been accepted by the compulsory third party insurer or determined by a medical officer appointed by the Medical Assessment Service (MAS), as exceeding 10% whole person impairment under the relevant guidelines.

An application for medical assessment may be brought by a claimant with MAS once a request has been made to the compulsory third party insurer to accept that the claimant's whole person impairment exceeds 10% and this has been refused.

The following damages are available in motor accident claims:

- Pain and suffering if appropriate;
- Past and future loss of income reduced by an actuarial five percent discount rate for the future;
- Past and future medical treatment expenses;
- Past and future care and equipment including home modification expenses;
- Past and future domestic and personal assistance provided free of charge in circumstances where the assistance has been provided for a minimum of six hours per week and for a period of time greater than six months. An hourly rate based upon Average Weekly Earnings rather than commercial rates can be claimed for this assistance.

An award of damages will be reduced if the Arbitrator at CARS or the District Court finds that the claimant was partially responsible for the accident. Any contributory negligence on the part of the claimant will be determined as a percentage. The total amount of damages assessed will be reduced by that percentage.

If you are injured in a motor vehicle accident, there is a minefield of strict procedural and time requirements in claiming compensation. Turner Freeman are experts at ensuring compliance with these requirements.

Total and Permanent Disablement (TPD) Superannuation

Most superannuation funds have insurance policies for the benefit of members who are unable to work. The benefits available from the policy are in addition to any Workers' Compensation or other personal injury entitlements that may be available.

What is TPD – Total and Permanent Disability?

Every superannuation fund and each individual policy vary in their definition of TPD and how you qualify for a benefit.

Generally, to be classified as TPD you must:

- Be unable, because of illness or injury, to work in any employment for which you are reasonably qualified by education, training or experience;
- Have ceased active employment as a result of the injury or illness;
- Be under 65 years of age at the date of ceasing active employment;
- Have a TPD insurance policy in place at the date of ceasing active employment.

In addition, most funds require you to have been absent from active employment for at least six months before you are eligible to make a claim. This waiting period varies between funds.

Education, training or experience

In addition to medical evidence, the likelihood of returning to active employment will be determined with reference to:

- The labour market;
- A member's transferable skills;
- The practical likelihood of gaining employment.

Often alternative employment may be available to an incapacitated person if further education or retraining is undertaken. In this case, a member may still be eligible to make a claim for total and permanent disablement. This is because the need to retrain indicates that such alternative employment is outside of the member's education, training or experience.

Claims Process

Each insurer has different rules about how to make claims and what evidence you need to provide. Generally a detailed application form will need to be completed by you with sections or separate forms to be completed by your employer and medical practitioners. You will also need to prove your identity via certified documents and provide proof of your injury or illness and the extent of any disability suffered.

Some insurers impose time limits on when you can bring a claim. You generally must bring a claim without delay and as soon as you are reasonably aware of the injury or illness occurring. Where an insurer rejects

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your claim there is an overarching time limit of six years to commence court proceedings claiming a breach of contract.

Once all of the relevant documents are completed and submitted to the insurer they will assess your claim and request any further information required. They may also request that you attend a specialist medical appointment with one or more doctors to further investigate the extent of your injury or illness. Sometimes a decision is made by a board of trustees or other panel of experts depending on the policy requirements.

Once a decision is made the insurer must notify you in writing of the outcome and generally provide reasons as to why they have made the decision.

If your claim is rejected or you are not otherwise satisfied with the outcome there may be avenues of review and appeal available to you both internally with the insurer or externally through government authorities or courts and tribunals.

There can be strict time limits that apply to lodging a review or appeal and you should act quickly if you have received a decision which you do not agree with.

Turner Freeman will help you every step of the way through the process.

Most superannuation funds have insurance policies for the benefit of members who are unable to work.

Some insurers impose time limits on when you can bring a claim.

Defective Product Claims

If you have suffered injury from a defective product, or a product that has caused you to suffer an injury, then turn to Turner Freeman Lawyers to get the help and guidance for the compensation you deserve.

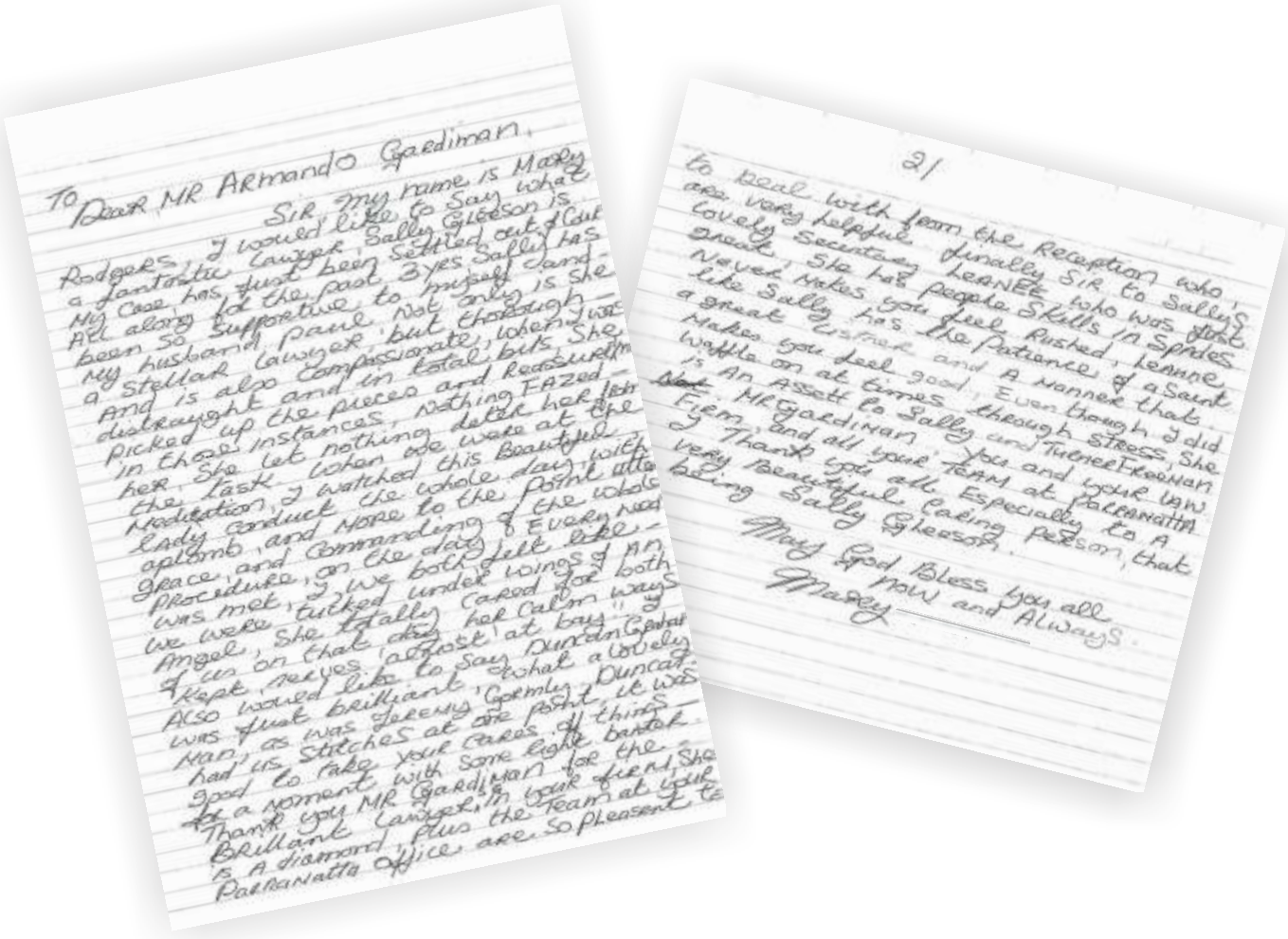
You may have a faulty product or defective product claim if you have been injured by unsafe or defective consumer goods and household appliances, faulty equipment, cars, machinery and components and/or defective medical prostheses, orthodontics, devices or implants.

Turner Freeman Lawyers have been acting in claims for defective product injuries for over 60 years and have developed a high level of experience and success in those claims in the Australian community.

Where do I start?

Turner Freeman Lawyers understand that this is a stressful time and we can investigate the prospects of your claim at no obligation. The litigation process is complex, so it is imperative that you seek legal assistance early.

We act on a 'No Win, No Fee' basis and your first consultation with one of our experienced lawyers is always free. Seeking legal advice is important so you can be best informed of your compensation claim and any other potential avenues for compensation that can be pursued on your behalf.



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Medical Negligence Claims

Health care professionals must provide treatment and advice that is proper and competent. If they fail to act in accordance with the required standard of care at law, then they can be considered to have breached their duty of care and you may be entitled to claim compensation for your injuries.

Medical negligence law is a complex area and requires specialized legal knowledge and skill. At Turner Freeman Lawyers, we have lawyers who practice exclusively in the area of medical negligence. This places our lawyers at a unique advantage in having the particular skill set needed in order to successfully handle your case.

A medical negligence claim is a claim for compensation arising out of an injury suffered as a result of negligent treatment provided by a health care practitioner. These include doctors, namely general practitioners, surgeons and specialists, both in public and private practice, and also other professionals such as nurses and also those who work as allied health providers such as physiotherapists and chiropractors.

Medical negligence can occur in a variety of settings including:

- Birth trauma;
- General surgery;
- Treatment provided by a general practitioner;
- Anaesthetic care;
- Emergency medicine;
- Obstetrics and gynecology;
- Cancer treatment;
- Psychiatric care; or
- Cosmetic surgery.

There are a number of different actions which can constitute medical negligence. Some examples of these are:

- Incompetent surgery;
- Incompetent post operative care after surgery;
- A failure to diagnose a condition;
- A failure to refer to a specialist in a timely manner;
- A general failure to properly treat; or
- A failure to report correctly and/or follow up on test results.

Proof of negligence in a medical negligence case requires a patient to establish that:

Health care providers must provide treatment and advice that is competent. If they fail to act in accordance with a reasonable standard of care then they have breached their duty of care and you may be entitled to claim damages for your injuries.

Medical Negligence Claims CONTINUED

- The professional owes a duty of care to the patient;
- That professional breached his/her duty of care owed;
- The breach of duty of care materially contributed to the patient's injury; and
- The patient suffered an injury.

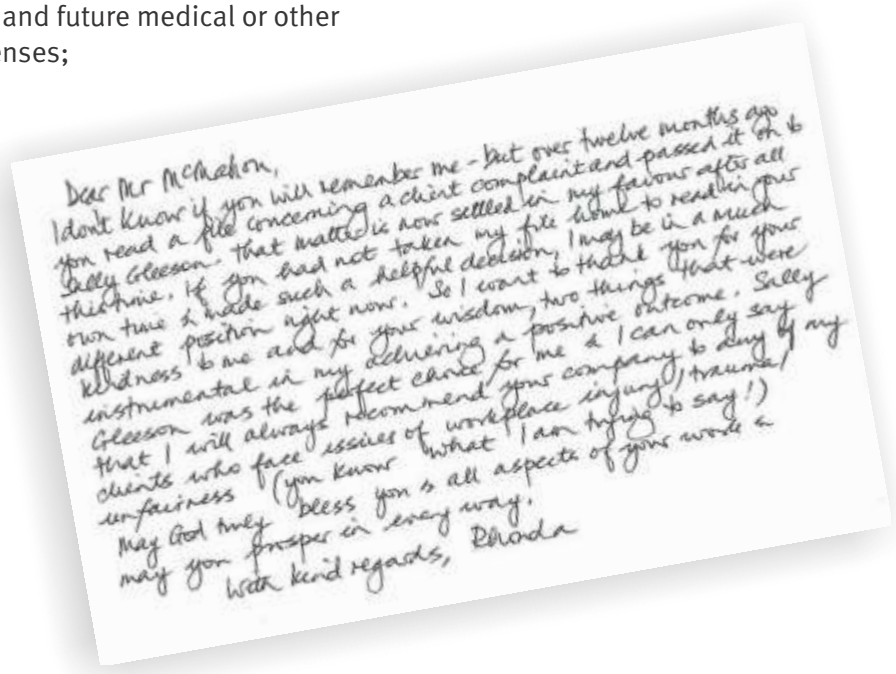
Normally, the fact that the professional owes a duty of care is not controversial. What has to be established is that there was a breach of that duty of care and the connection between that breach and a patient's injury. This requires expert evidence that the health professional has not acted reasonably or appropriately. Once this is established, then further expert opinion is required to asses a patient's entitlement to compensation, depending on the nature of their injury.

If negligence can be proven, you can claim compensation for:

- Pain and suffering;
- Past and future medical or other expenses;
- Past and future loss of income;
- Care and domestic assistance, whether provided voluntarily or on a paid basis; or
- Loss of capacity to provide domestic services to a dependent.

Health care practitioners rarely admit fault so expert evidence must be articulate and convincing. Turner Freeman lawyers have the specialist knowledge to properly investigate, prepare and manage a claim to its conclusion. Most matters settle without proceeding to a Court hearing. Time limitations apply in relation to the commencement of proceedings so it is vital that legal advice is immediately sought.

The first step would be to meet with one of our medical negligence specialists who will provide you with obligation-free advice. We can visit you at your convenience, whether at your home or in hospital.


Dear Mr McMahon,
I don't know if you will remember me - but over twelve months ago you read a file concerning a client complaint and passed it on to Sally Gleeson. That matter is now settled in my favour after all this time. If you had not taken my file home to read in your own time & made such a helpful decision, I may be in a much different position right now. So I want to thank you for your kindness to me and for your wisdom, two things that were instrumental in my delivering a positive outcome. Sally Gleeson was the perfect choice for me & I can only say that I will always recommend your company to any of my clients who face issues of workplace injury/trauma/ unfairness (you know what I am trying to say!)
May God truly bless you & all aspects of your work & may you prosper in every way.
With kind regards, Rhonda

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Public Liability Claims

A public liability claim can be made in a wide variety of circumstances where you are injured because of the failure of another person, government authority or business operator to take reasonable care for your safety. It must be proved the injury was caused as a result of the negligence of another. In some circumstances however legislation eliminates the need to prove fault, and in other circumstances legislation restricts the ability to claim negligence. The categories of public liability claims are governed either by the Civil Liability Act 2002 or other legislation.

Occupier's liability

A business owner, government authority or householder may be liable in negligence if you are injured as a result of a slip and fall or trip and fall accident.

There must be an unreasonable failure to remove slip or trip hazards from floors or stairways of the premises. For instance a supermarket operator may be liable in negligence for failing to arrange for cleaners to routinely inspect floors and remove spillages or erect warning signs.

But an occupier of premises will not be liable in negligence under the civil liability legislation for failing to warn of slip or trip hazards that represent an 'obvious risk'.

Recreational and sporting accidents

You can make a claim in negligence against organisations or associations arising from injuries sustained in sporting or recreational events but this is significantly restricted by the civil liability legislation. There is no liability when your injury results from an 'obvious risk' in the course of a 'dangerous recreational activity' such as falling from a horse during an organised horse riding event.

There is no duty of care imposed in relation to a risk of injury of a recreational activity when a written or oral warning is provided by the association. Nevertheless, liability may arise against personal trainers for injuries sustained in training sessions. Fitness clubs generally seek to avoid liability for injuries by relying on written risk warnings as well as contractual waivers of liability.

If you are a member of a sporting association you may be able to obtain compensation for injuries in sporting events under sporting injuries insurance legislation, without proving fault.

Animal attacks

If you are injured by an animal such as a dog you may be able to bring a claim against its owner for failing to properly restrain or control it.

Public Liability Claims CONTINUED

The companion animals legislation enables a victim of a dog attack to claim compensation from the owner without proving fault.

Roads and footpath authorities

A motorist or pedestrian injured as a result of defects in roads or footpaths may have a claim against a local government authority or Roads and Maritime Services, or Transport NSW (formerly RTA) for failing to rectify them. The legislation has limited the availability of claims to those arising from a failure to properly repair defects only where the authority has actual prior knowledge of the defect.

The distinction is technical and obscure and was introduced to limit the liability of local government authorities in circumstances where budgetary restrictions prevent routine repairs to roads or footpaths.

Damages

Compensation in public liability claims is restricted under the civil liability legislation to:

- Pain and suffering is limited to injuries and disabilities greater than 15% of a most extreme case of injuries;
- Past and future loss of income is reduced by a 5% discount rate for future loss;
- Past and future medical expenses;

- Past and future care and equipment including home modification expenses;
- Past and future domestic and personal assistance provided free of charge in circumstances where the assistance has been provided for a minimum of six hours per week and for a period of time greater than six months. An hourly rate based upon Average Weekly Earnings rather than commercial rates can be claimed for this assistance.

You can make a claim by issuing a letter of demand to the negligent party so that the public liability insurer for that party can be put on notice of the claim.

Turner Freeman has experienced lawyers who can help you through the process.

Any court proceedings must be commenced within three years from the date of the accident. This is to prevent the negligent party from raising a limitation defence.

It is important to seek legal advice before you make any claim. Turner Freeman works on a no win-no fee basis for Personal Injury claims. Unless you recover compensation you will not be charged for our work.

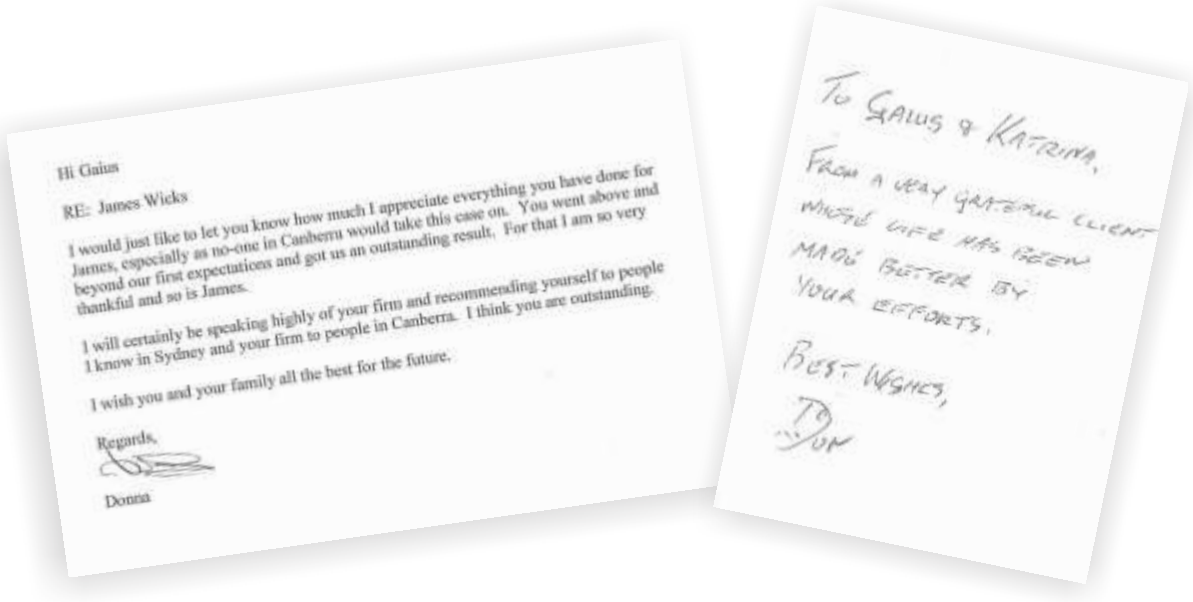
Civil Assault Claims

If you are the victim of an assault a claim may be made against the assailant. The advantage is that the restrictions imposed on compensation by the civil liability legislation will not apply.

Any court proceedings must be commenced within three years of the date of the assault in order to prevent the assailant from relying upon a limitation defence. It is important to ensure that an assailant has sufficient assets to meet any court award of compensation before pursuing a civil assault claim and to take steps to prevent the assailant from disposing of those assets in the course of the litigation.

Damages that may be awarded against an assailant for civil assault are assessed by the court in relation to:

- Pain and suffering for injuries and disabilities unrestricted by any 'sliding scale' under the civil liability legislation;
- Aggravated damages for injury to feelings;
- Exemplary damages to punish the assailant and deter future violent conduct;
- Past and future loss of income subject to a more favourable 3% actuarial discount rate for the future;
- Past and future medical treatment expenses;
- Past and future domestic and personal assistance unrestricted by any requirement that the assistance be provided for a minimum of six hours per week for a period of six months.


Hi Gaius

RE: James Wicks

I would just like to let you know how much I appreciate everything you have done for James, especially as no-one in Canberra would take this case on. You went above and beyond our first expectations and got us an outstanding result. For that I am so very thankful and so is James.

I will certainly be speaking highly of your firm and recommending yourself to people I know in Sydney and your firm to people in Canberra. I think you are outstanding.

I wish you and your family all the best for the future.

Regards,

Donna

To Gaius & Katrina,

From a very grateful client whose life has been made better by your efforts.

Best Wishes,

Don

It is important to seek legal advice before you make any claim. Turner Freeman works on a no win-no fee basis for Personal Injury claims. Unless you recover compensation you will not be charged for our work.

Church and School Abuse

The Royal Commission into Institutional Responses to Child Sexual Abuse has revealed extensive sexual abuse of children in Australian institutions. It has shown how childhood abuse may cause costly, severe and long lasting harm.

Many survivors have described their experiences to the Royal Commission. As well as participating in the Royal Commission you may be eligible to claim compensation.

Turner Freeman provides legal advice to all survivors of childhood sexual, physical and emotional abuse on a confidential basis.

We assist survivors of abuse within the family, or in institutional settings such as schools, churches, orphanages, foster care, hospitals and recreational or sporting clubs.

The responsible institution should be held to account.

We are experienced in advising survivors about their eligibility to claim compensation for physical and psychological injuries and the loss caused by abuse.

Compensation for survivors of childhood sexual abuse

You may be eligible to claim compensation by bringing a civil claim against the institution responsible for the abuse.

A civil claim is made for a lump sum payment that aims to compensate you for the effects of the abuse.

This can include the costs of counselling and other medical treatment, financial loss that results from the abuse, as well as compensation for pain and suffering.

Many claims are settled outside of court proceedings. You should not expect to have to give evidence in court about the abuse or face the perpetrator.

Claims for personal injury in NSW are usually made within 3 to 6 years of the injury. For most survivors of childhood sexual abuse however it is decades before the abuse is disclosed and a claim is considered.

The New South Wales Government has supported removing the limitation period within which claims must be made so that a child abuse claim can be brought at any time. This includes claims for sexual abuse, serious physical abuse or other abuse in connection with the sexual or serious physical abuse, that happened when the person was under 18. Contact our experienced lawyers if you have already made a claim and you were not successful because of the limitation period so we can advise you about making a new claim.

We are experienced in advising survivors about their eligibility to claim compensation for physical and psychological injuries and the loss caused by abuse.

It is important to seek legal advice before you make any claim. Turner Freeman works on a no win-no fee basis for Personal Injury claims. Unless you recover compensation you will not be charged for our work.

We will also keep you advised about a national redress scheme recommended by the Royal Commission. If a national redress scheme is established you may be able to claim a lump sum payment of compensation.

A recognition payment and counselling costs may be also available from Victims Services NSW.

Our lawyers will discuss the best option with you once we have investigated the circumstances of the abuse.

Revisiting abuse may be daunting and confronting. The experienced lawyers at Turner Freeman aim to make the legal process as easy as possible and ensure that you are adequately supported throughout the process.

Compensation claims can be complex and claims involving childhood sexual abuse require a specialist lawyer.

If you, a family member or friend have experienced childhood sexual abuse in an institutional setting contact Turner Freeman to discuss your legal options.

We will investigate your claim and advise you on a “no win, no fee” basis.

The Royal Commission into Institutional Responses to Child Sexual Abuse

The Royal Commission is investigating how institutions such as schools, churches, recreational and sporting clubs, hospitals, orphanages, children's services and foster care have responded to allegations and instances of child sexual abuse.

It is examining past and current child sexual abuse to make findings and recommendations on how institutions with responsibility for children can improve the way they manage and respond to child sexual abuse in the future.

The Royal Commission is investigating how institutions and governments can create a safer future for children, how they can achieve best practice in reporting and responding to incidents and how they can address the impact of child sexual abuse on survivors, including through the provision of redress and compensation.

The aim of the Royal Commission is to understand what has happened in the past to stop it from happening in the future.

You can contact the Royal Commission by calling 1800 099 340, by email at contact@childabuseroyalcommission.gov.au or by writing to GPO Box 5283, Sydney NSW 2001.

knowmore

knowmore is an independent service that gives free legal advice to people who are considering telling their story or providing information to the Royal Commission.

knowmore have specialist trained and experienced staff who can make sure you have all the legal information and advice you need before deciding whether to tell your story to the Royal Commission and they can talk about how to do it. They also employ male and female Aboriginal & Torres Strait Islander workers.

You can contact knowmore by calling 1800 605 762 or 02 8267 7400, by email at info@knowmore.org.au.or by writing to PO Box 20319 World Square NSW 2002.

Legal costs in personal injury claims

There are different costs regimes in relation to the payment of legal costs associated with personal injury claims and those different costs regimes relate to the place where the claim is commenced.

In Workers' Compensation claims it is possible for us to apply to WIRO (the Workers Compensation Independent Review Office) and to ILARS (The Independent Legal Assistance and Review Service) for a grant of legal aid in payment of legal costs and disbursements. Unless we have a grant of funding from WIRO we will not proceed with a claim in the Workers' Compensation Commission. That is because there is no other means by which our legal costs can be recovered other than through WIRO.

Where claims are brought in the District or Supreme Court of NSW in respect of work injury damages, public liability, professional negligence, medical negligence, or in respect of motor vehicle accidents, then those claims are conducted on the basis that as long as the claim is won the legal costs will generally be payable by the defendant at the completion of the proceedings. Costs payable by the defendant are referred to as party/party costs. If a matter proceeds to Judgment the Judge will make an award of damages and will generally order that costs be paid by the defendant.

The defendant or its insurer will pay the party/party costs. The client will be liable for the solicitor/client costs. We usually recover between 70% and 80% of total legal costs on a party/party basis. The balance needs to be paid by the client on a solicitor/client basis.

Prior to any personal injury claim being commenced by us and before doing any legal work on a claim we are required by law to have the client sign a costs agreement. The costs agreement must be signed at the start of the claim. If the claim becomes more complex than what was originally envisaged then the costs agreement must be updated during the course of the claim as well so that you as the client are fully updated at all times in relation to the costs liability.

Not all cases proceed to trial. In fact, the overwhelming majority of cases settle either at informal settlement conferences or mediation. If your matter settles it may settle either on a plus costs basis or on an inclusive of costs basis. If it settles on a plus costs basis then the description that we have provided above as to how party/party costs are recovered applies. If your case settles on an inclusive of costs basis then you will have to pay the total costs from your settlement amount. At the time of settlement we will provide you with a reasonably accurate estimate of the total costs that are owing by you. That costs estimate will be factored into the overall settlement amount so that we will be in a position to tell you, at settlement, what you will receive in your hand after all out of pocket expenses and legal costs have been deducted.

We will, once the settlement proceeds are received, provide you with a full accounting in relation to your claim.

In all claims for personal injury in the State of New South Wales we act for the client on a no win/no fee basis. In other words, unless we are successful in recovering damages on behalf of the client then they will not be charged for legal work done by us nor disbursements incurred by us in investigating the claim.

Please note that the no win/no fee system applies to all common law claims that we conduct in the State of New South Wales.

It is important to seek legal advice before you make any claim. Turner Freeman works on a no win-no fee basis for Personal Injury claims. Unless you recover compensation you will not be charged for our work.

We can assist you after you have finished your claim for personal injury

Turner Freeman is able to continue to assist you after your personal injury claim has been settled or determined by the court. We can help you with every form of legal advice and assistance.

We always advise our clients, if they recover very substantial damages, to obtain expert advice about how to invest their lump sum. Large lump sum payments need to be carefully invested to ensure that they will be available for life. They need to be properly invested to make sure you are not forced onto social security at some stage in the future.

In all large claims we recommend that you obtain expert investment advice. We refer clients to experts who are reputable and experienced at providing financial plans and investment plans. We receive no fee from the adviser or planner and Turner Freeman is not directly involved with this advice.

The other areas of legal work Turner Freeman provides that might be of assistance to you when you recover a large amount in settlement or judgment for a personal injury claim include:

- Buying a home for your family;
- Buying an investment property;
- Paying off a mortgage;
- Making a will, a vital document where an injured person receives a large amount of money;
- Creating a Power of Attorney and a Power of Enduring Guardianship, vital documents if the client is significantly disabled.
- Creating a Trust;
- Purchasing a business;
- Purchasing a farm;
- Resolving family law issues.

Turner Freeman has experts who can provide advice in all of these areas. In relation to our conveyancing and estate services we offer discounted and at times free legal advice. After your claim is settled if you require assistance in any of this legal work do not hesitate to raise any of these matters with your solicitor so you can be referred to an appropriate specialist at Turner Freeman.

Turner Freeman Lawyers will give you the personal service you deserve. Personal Injury matters are often stressful and distressing. Our experienced team is here to advise and guide you through the process. We are expert and understanding.

The people at Turner Freeman speak a number of different languages. When we do not have a lawyer who speaks your language, we can access interpreters.

Hospital and home visits can be arranged for those unable to attend a meeting in Turner Freeman's offices.

Personal Injury Law Team

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We have Accredited Specialists in Personal Injury Law

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Fady Dous PARTNER

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We have Accredited Specialists in Personal Injury Law

Great People

At Turner Freeman Lawyers offices throughout Australia you'll find friendly and expert professionals who are passionate about doing a great job for our clients. We have Accredited Specialists in wills & estates law, as well as family law, personal injury law, employment law and property law. Our lawyers are some of the most experienced in their area of practice.

Great Results

Since 1952 Turner Freeman Lawyers have been achieving exceptional results for our clients in legal matters of all sizes and across all areas of law. We have achieved some of the largest damages payouts awarded in Australia and indeed the law has been changed as a result of cases run and won by Turner Freeman. We will go the distance to ensure the best possible outcome is achieved for you.

Great Value

We provide the highest quality legal services at a reasonable fee, often at no up front cost to our clients. We are so confident of the value we provide and encourage you to speak to one of our Partners about our legal fees before you sign a costs agreement with another law firm.

Turner Freeman
Lawyers Est. 1952

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WOLLONGONG
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We also have interstate offices located in:

Adelaide, Brisbane, Cairns, Ipswich, Logan City, Maroochydore, North Lakes, Perth, Southport and Toowoomba.

Ring our toll free number to be connected to your nearest Turner Freeman office **13 43 63**

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