



HIGH COURT OF AUSTRALIA

Public Information Officer

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WHISPRUN PTY LIMITED v SONYA LEA DIXON

The High Court of Australia today upheld the decision of a New South Wales Supreme Court trial by Justice Peter Newman who rejected Ms Dixon's claim that she was suffering from chronic fatigue syndrome as a result of Q fever infection.

Ms Dixon contracted Q fever in April 1994 while working at an Inverell, NSW, abattoir where her job was to suck foetal blood into a pipette from unborn calves' hearts. The disease lasted up to 10 months. Her employer, Whisprun, conceded it had breached a duty of care owed to her but denied she also developed chronic fatigue syndrome, as up to 20 per cent of Q fever sufferers do. Between 1994 and the 2000 trial Ms Dixon saw numerous doctors complaining of headaches, aches and pains, nausea and fatigue.

Justice Newman held that Ms Dixon lacked credibility after surveillance videos, photographs and her own testimony showed inconsistencies between what she said she could do and what she did do. There was evidence of brisk walking around Sydney, attending race meetings, riding horses, driving cars and horse floats, riding a jet ski and an inner tube towed by a speedboat, and drinking and dancing at a wedding. Ms Dixon claimed her mood swings caused the break-up of her relationship but there was evidence it had continued. Because the damages which Justice Newman would otherwise have awarded fell short of the statutory threshold that the NSW Workers Compensation Act then provided, he dismissed Ms Dixon's action with costs.

The NSW Court of Appeal unanimously held that Justice Newman had not given weight to medical reports about Ms Dixon's condition and erred in concluding that it rested on subjective symptoms when there were objective symptoms such as weight loss, abdominal tenderness, pallor and depression, and impaired memory. The Court allowed Ms Dixon's appeal and ordered a new trial. Whisprun appealed to the High Court.

The High Court, by a 3-2 majority, allowed Whisprun's appeal and restored the judgment of the trial judge. The majority held that, having regard to the way the trial was conducted, Justice Newman had not overlooked relevant evidence and there was no miscarriage of justice.

- *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.*