

## Sexualised Therapy: Damages For Post Traumatic Stress Disorder

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*Sibbald v. O'Reilly, District Court of New South Wales, Robison J, 28 March 1995 (unreported)*

It seems that an increasing number of cases are being reported in which patients claim to have suffered injuries from sexualised contact initiated by a health professional.

This case involved a registered nurse holding himself out as a therapist and provided counselling to the plaintiff.

The plaintiff initially sought family counselling in relation to her son's behaviour at school.

The family counselling developed into individual counselling and, after a period of time, the sessions developed into a form of physical contact between the parties, initiated by the defendant.

The plaintiff came under the influence of the defendant who was found to have manipulated her state of mind. The physical contact developed into intimate touchings, hugs and kisses. The contact became more sexualised over time although sexual intercourse never took place.

The plaintiff became concerned about the relationship and sought advice from members of her church community. The defendant was also a member of the same parish. Rather than receive the support that she expected, she became isolated and felt rejected.

A complaint was lodged with the NSW Department of Health Complaints Unit (as it then was) and the matter was heard by the Nurses Tribunal of New South Wales. The Tribunal ordered that the defendant's name be removed from the Register of Nurses.

The plaintiff instituted common law proceedings which were not contested by the defendant and the matter came on for an assessment of damages.

Evidence was given by a psychiatrist of the plaintiff's condition. He diagnosed her condition as a moderate to severe post traumatic stress disorder. The psychiatrist referred to problems of guilt, shame, difficulties facing others, flash backs,

sexual problems in her marriage, easy startling, excessive vigilance, difficulties with concentration, despondency and a sense of loss in various ways.

The evidence showed that the plaintiff required extensive future care to treat the post-traumatic stress disorder.

His Honour assessed general damages in the sum of \$25,000 and allowed two percent interest for a period of six years, a sum of \$1,500. His Honour allowed \$24,180 for the cost of future counselling on the basis of the three percent tables, discounted to \$18,806: a total award of \$45,306 plus costs.

Judge Robison's decision is significant because of the relatively substantial award for damages and future treatment. It should be observed that the plaintiff's injuries were confined to post traumatic stress disorder. Importantly, the evidence about the need for future treatment was sufficiently persuasive to satisfy the Court to make a substantial award for future care.

The case also points to the need for all health professionals to be registered, required to have appropriate qualifications and to provide treatment to proper standards.

It is to be regretted that at the present time anybody can hang out a "therapists shingle" without proper qualifications and without the overview of registration and provide treatment to unsuspecting patients.

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