

2014 - A Quick Look Back

With 2015 off to a summery start everyone at Vero Liability would like to thank all of our broker friends for their support in 2014; we look forward to more of the same in 2015.

In 2014 VL underwriters enjoyed a satisfyingly productive year. Our claims team had their hands full too. At one end of the spectrum numerous long-standing multi-million dollar claims which came out of the GFC era were settled. In most of these instances VL demonstrated one of its hallmark qualities in working strenuously to achieve out-of-court settlements thus avoiding unwelcome publicity for our clients.

In contrast we picked up our share of unusual claims in the SME sector. No matter the many years of collective experience we have there is always something which raises eyebrows. Here are few such examples.

Poisonous Shrubs

A rural transport operator decided to clear some overgrown shrubbery on the perimeter fence around its yard. The cleared vegetation was tossed over the fence into an adjoining paddock, also owned by the client but leased to a family to graze horses. Amongst the prunings was a quantity of oleander shrub which is highly poisonous when consumed. Two of the horses, both valuable stallions, consumed the oleander foliage and became ill. Despite emergency treatment they succumbed and died. Liability was conceded. Whilst the actions in clearing the vegetation were questionable in terms of cover for a "transport operator" the Public Liability policy business description correctly included "property owner" and as such the third party claim was indemnified.

A Secret Disclosed

Mr & Mrs A used the same law firm to make their wills. Mrs A had a specific provision in her will for a bequest to go to her birth child which she had when she was a single teenager and adopted out some 45 years earlier and of which Mr A had no knowledge. She made a strict instruction to the firm's partner that her will had to remain strictly confidential until her death.

The couple decided to sell their joint family home and Mr A asked the lawyers to send them copies of any files they held on the purchase of the house some 20 or so years back. Unfortunately the partner who looked after the couple's affairs had recently died and the matter was left to a junior staff lawyer who seemingly misunderstood the reason for the request. It transpired that there were no records for the house purchase and Mr A was sent copies of both wills, which were the only files retained. Mrs A's secret was no more, creating an unwanted dynamic in the marriage and causing her considerable distress.

Mrs A has lodged a complaint with the Law Society's Lawyers' Complaints Service as well as intimating a claim for compensation for emotional harm. The law firm's Professional Indemnity policy will assist indemnifying costs to respond to the complaint and ultimately indemnify any claim that may successfully eventuate.

Copyright Problems

A travel agency used photographic images of tropical island scenery in its promotional material. It had downloaded the images from an internet site in the mistaken belief that these were free to use. The source site was a bit misleading in that it said the images were free to use. The photographer said that those sites did not have authority to offer his images. Entities that have had claims for breach of copyright made against them by the photographer contend that the photographer concerned regularly ensnares unsuspecting, but careless, companies and then pursues damages when he discovers his images on their sites. It transpires that he has had in excess of 20 breach of copyright claims in the past in Australia, New Zealand and Hawaii. Notwithstanding this dubious "entrapment", the agency unquestionably breached copyright and VL dealt with the claim under the agency's Professional Indemnity policy by coming to a commercial settlement with the photographer's lawyers.

A Good Save

A sole practice rural real estate agency advertised mortgagee sales for four properties in a small community. The properties were, in fact, not for sale. The agency had just recently acquired a "book" of clients from another agency whose principal had retired. The agency's office administrator had inadvertently used old listings from the other agency where the same lender had commissioned mortgagee sales some years prior. The mistake caused some consternation particularly in such a small-town location and the circumstances were reported to VL as a potential complaint to the Real Estate Agents Authority. VL assisted the agent in "damage control" with the lender and in mollifying the aggrieved property owners. No formal complaint or claim has eventuated.

Please contact your specialist [VL Underwriter](#) or [Claims Handler](#) to discuss any aspect of this Bulletin.